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MARSHALL COUNTY COURTHOUSE, PLYMOUTH, INDIANA

INVENTORY OF THE COUNTY ARCHIVES
OF INDIANA

Prepared by

The Indiana Historical Records Survey, Ind.
Division of Community Service Programs
Work Projects Administration

Sponsored by
Indiana Historical Bureau

No. 50. MARSHALL COUNTY
(PLYMOUTH)



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The Indiana Historical Records Survey
Indianapolis
1941

HISTORICAL RECORDS SURVEY PROJECTS

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FOREWORD

The *Inventory of the County Archives of Indiana* is one of a number of guides to historical materials prepared throughout the United States by workers on the Historical Records Survey Projects of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Marshall County, is number 50 of the Indiana series.

The Historical Records Survey program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local governments, and which provide invaluable data for students of political, economic, and social history. Up to the present time approximately 1,400 publications have been issued by the Survey throughout the country. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, businessmen, and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey Projects attempt to do more than give merely a list of records—they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey Projects, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their cooperation is gratefully acknowledged.

MARSHALL COUNTY

The survey program was organized by Luther H. Evans, who served as Director until March 1, 1940, when he was succeeded by Sargent B. Child. The survey operates as a Nation-wide series of locally sponsored projects in the Division of Community Service Programs, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

HOWARD O. HUNTER

Commissioner of Work Projects

PREFACE

The Historical Records Survey, one of the projects of the Division of Community Service Programs of the Work Projects Administration, was organized in January 1936 with Luther H. Evans as National Director. The survey of local public records was begun in Indiana on February 19, 1936 as part of the Federal Writers' Project, but in September of that year the Survey became independent of the Writers' Project. On September 1, 1939 the Indiana Historical Records Survey became a State project under the sponsorship of the Indiana Historical Bureau, and Roger A. Hurst was appointed State Supervisor of the survey in January 1940. Mr. Evans was succeeded as Director by Sargent B. Child in March 1940.

The objectives of the Indiana Historical Records Survey are to discover, preserve, and make accessible historical materials of a public or semi-public nature. Inventories of the records of counties, cities, towns, and churches, and guides to manuscript depositories and collections have been or will be published. The Survey also prepares church directories, and has transcribed or microfilmed certain early county records as a measure of preservation.

The inventory proper is preceded by essays on the history, government, and record housing of the county. The records themselves are described in entries giving the following information: Title of record, dates available, quantity, labeling, variant titles, description of contents, arrangement, indexing, nature of recording, size, and location. The various county bureaus—both active and defunct—are arranged in functional order: Governing boards; major administrative offices; judicial offices; and financial, election, educational, health, public welfare, engineering, and other groups. Wherever applicable, natural groupings under separate headings are made within each bureau.

The field work of the survey in Marshall County was performed at various times between April 27, 1936 and October 2, 1940. Much of the field work was performed by or under the supervision of Alvin Melser, foreman in the district

editorial office of the Survey, and Charles A. Ferry, district supervisor, directed the final stages of field work. Many trips have been made to Marshall County to check information used in this book and the final recheck was made by Marshall Cowgill in October 1940.

Information for this volume was submitted to a State editorial staff, of which the department heads were: Marshall Cowgill, record entries and office essays, who was assisted by Howard Crossen; W. Davis Hamilton, legal research; Harry Graves, historical sketch; Howard Oates, proof-reading and indexing; and Charles Griffin and William Spurgeon, illustrations. This volume was multigraphed by Survey personnel directed by William Deupree, who also served as managing editor and prepared the housing essay.

The survey is deeply indebted to many Marshall County officials; to Dr. Christopher B. Coleman, Director, Indiana Historical Bureau, who gave valuable advice and service; to John K. Jennings, State WPA Administrator; to Mildred E. Schmitt, State Director, Community Service Programs Division, who has rendered the Survey important service in administrative matters; to John D. Stuckey, Chief, Research and Records Programs; and to many others who contributed time and effort. The Indiana staff received valuable advice and criticism from the central office of the Survey. This inventory in manuscript form was edited by Mabel S. Brodie, editor-in-chief of public records inventories.

The *Inventory of the County Archives of Indiana* will, when completed, consist of a separate volume for each county. A list of inventories published to date appears at the end of this volume. Numbers are assigned according to the county's position in an alphabetical list and thus the Marshall County volume is number 50. Four hundred and fifty copies of this inventory have been published and many have been distributed to libraries, universities, government offices, and other depositories over the State and the Nation. Copies will also be available in Marshall County for persons, offices, or institutions having occasion to use county records or to study local government. Requests for information concerning this and other publications of the Survey in Indiana should be addressed to the Director, Indiana Historical Bureau, Senate Avenue and Ohio Street, Indianapolis.

ROGER A. HURST

State Supervisor

The Indiana Historical Records Survey

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1941

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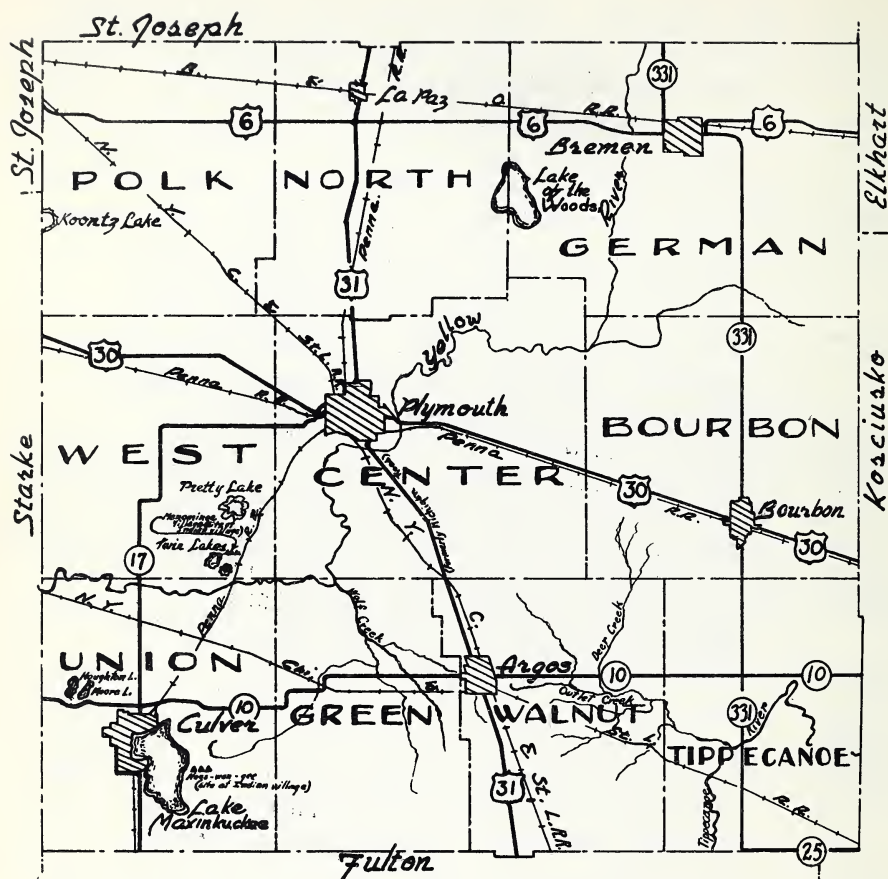
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MAP OF MARSHALL COUNTY

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Scale of Miles

PART A. MARSHALL COUNTY AND ITS RECORDS SYSTEM

1. HISTORICAL SKETCH

PHYSICAL CHARACTERISTICS

Marshall County is in the north central part of Indiana, only one county separating it from the Indiana-Michigan line. It is bounded on the north by St. Joseph County, on the east by Elkhart and Kosciusko Counties, on the south by Kosciusko and Fulton Counties, and on the west by Starke and St. Joseph Counties.¹ From the northwest corner of the county it is approximately 40 miles to Lake Michigan, and the county is located in the lake region of Indiana.² Marshall County is rectangular in shape, its north and south boundaries being 21 miles equidistant and its east and west boundaries approximately $21\frac{1}{4}$ miles apart, with a variation because of meridian lines.³ It comprises an area of 445 square miles or 284,800 acres.⁴

The Yellow River, the principal stream of the county, flows from northeast to southwest, receiving during its course a number of tributary creeks. It empties into the Kankakee River and drains approximately seven-eighths of the area of the county, the remaining area being drained by the Tippecanoe River which flows in a short elbow across the southeastern corner of the county, with Deep Creek emptying into it as its principal tributary.⁵ A number of small lakes dot the surface of Marshall County. Wood Lake, Pretty Lake, and Twin Lakes are near Plymouth, Lake of the Woods near Bremen, and Lake Maxinkuckee, the largest natural body of water in

¹ Indiana State Planning Board, *Preliminary Survey of County Planning Problems in Indiana Counties, 1935-36*, Marshall County section, p. 1, (typewritten manuscript in Indiana State Library).

² *History of Indiana and Marshall County*, II, 22, hereinafter cited as *History of Marshall County*.

³ *Ibid.*, p. 21.

⁴ Indiana State Planning Board, *op. cit.*, p. 1.

⁵ *Ibid.*

the county, is at Culver in the southwest corner of the county.⁶

The surface of Marshall County is for the greater part gently rolling, with no abrupt elevations or declivities⁷ except near the West and Center township boundary line, where there are occasional gullies caused by erosion.⁸ The entire area of Marshall County is covered to a great depth with glacial drift—probably underlaid by a bedrock consisting of clay, shales, and limestone of the Devonian age. The log of a well at Plymouth shows the drift to be 237 feet deep.⁹ There are no stratified rocks or outcroppings, but in many parts of the county the surface of the ground is thickly strewn with boulders of various kinds, chiefly granite, gneiss, and other metamorphic rocks. This appears to be the result of some post-glacial disturbance or flood.¹⁰

The highest point in the county is at Railsback, 886 feet above sea level; and the lowest at Arlington, 740.7 feet.¹¹ The mean average temperature in 1940 at Plymouth, near the center of the county, was 48.7°. Extremes of temperature over a period of ten year average 100 degrees for highest and zero for lowest. In 1934 the highest and lowest temperatures were respectively 106 degrees and -10 degrees, while in 1937 the highest was 93 degrees and the lowest 4 degrees. Precipitation ranged from a high of 7.52 inches in May to a low of 0.87 inches in July.¹²

EARLY INDIANA

Although there is evidence that the mound builder was an ancient dweller in Marshall County, this can only be supported by discovery of artifacts and not through existing mounds.¹³ After occupancy of the mound builders, but before the coming of white men to what is now Indiana, Indians

⁶ Indiana Department of Geology and Natural Resources, *Fifteenth Annual Report*, p. 181, hereinafter cited as *Indiana, Geological Report*.

⁷ *History of Marshall County, op. cit.*, p. 22.

⁸ Indiana State Planning Board, *op. cit.*, p. 3.

⁹ *Ibid.*, p. 2.

¹⁰ *Indiana, Geological Report*, pp. 179, 180.

¹¹ Indiana State Planning Board, *op. cit.*, p. 1.

¹² U. S. Weather Bureau, *Climatological Data*, vol. 45, no. 13, p. 50.

¹³ Indiana Department of Conservation, *The Mound Builders of Indiana and Mounds State Park*,

roamed the forests and prairies and made the streams of the untamed wilderness their highways, their mode of travel being the canoe of birch-bark or hollowed log. These Indians lived in tribal communities and subsisted mostly from hunting and fishing, but in addition practiced a rudimentary form of agriculture.

The tribe most intimately identified with Indiana was the Miami, whose territorial claims as laid down by their chief, Little Turtle, during the process of treaty-making at Greenville, Ohio, in 1795, embraced the entire state.¹⁴ However, either through unwillingness or inability to enforce their claims, they permitted other tribes to live within or frequent the State. Among these were the Potawatomi, a savage and warlike tribe originally from the region where Chicago now stands. This tribe joined forces with the Sacs, Foxes, and Kickapoos in a war of extermination on the Illinois Indians about 1765.¹⁵ From this war the victors pressed eastward and by sheer force of numbers crowded out the Miami occupants of the land north of the Wabash River.¹⁶ By the turn of the century the Potawatomi were the masters of all that part of the territory between Lake Michigan and the Wabash River and eastward as far as the Miami-Wabash portage.¹⁷

The first white people to enter Indiana were the French. In the latter part of the seventeenth century they made voyages of discovery and exploration from Canada into the Ohio Country, as the area north of the Ohio River came to be called. These visits were followed by trading and missionary activity among the Indian inhabitants of the region. In the first half of the eighteenth century three French trading posts were established in what is now Indiana: Post Miami, on the present site of Fort Wayne, about 1715; Ouiatenon, on the Wabash, about 4 miles southwest of Lafayette, about 1719 or 1720; and Vincennes, on the lower Wabash, sometime before March 1733.¹⁸

¹⁴ American State Papers, *Indian Affairs*, I, 570, 571.

¹⁵ Elmore Barce, *The Land of the Miami*, p. 46.

¹⁶ Hiram W. Beckwith, *History of Vigo and Parke Counties*, p. 146.

¹⁷ F. W. Hodge, ed., *Handbook of American Indians North of Mexico*, pt. 2, p. 290.

¹⁸ Oscar J. Craig, "Ouiatenon," *Indiana Historical Society Publications*, II, 329; P. G. Roy, "Sieur de Vincennes Identified," *Indiana Historical Society Publications*, VII (1923), 83; M. M. Quaife, "Fort Wayne in 1790," *Indiana Historical Society Publications*, VII (1923), 306; P. C. Phillips, Vincennes in its Relation to French Colonial Policy, *Indiana Magazine of History*, XVII, 315.

Early in the eighteenth century the English began to enter the Ohio Valley from the east. The conflicting territorial claims of the two nations were climaxed by the French and Indian War, as a result of which the French lost their colonial empire in America. During the American Revolution, George Rogers Clark conquered the Ohio Country and in 1778 Virginia organized it as the County of Illinois.¹⁹ At the close of the Revolution, Virginia, New York, Connecticut, and Massachusetts, who laid claim to the region in whole or in part, ceded their claims to the United States, and in 1787 Congress organized the area as the Northwest Territory.²⁰ From this region five States and a part of a sixth were subsequently created. Indiana Territory, embracing all the area between the present State of Ohio and the Mississippi River, except a small portion of the present State of Michigan and that portion of southeastern Indiana known as "the gore," was organized in 1800.²¹ In 1816 Indiana, with its present boundaries, was organized and admitted into the Union as a State.²²

The Indian titles to the land comprising Indiana were extinguished by a series of treaties beginning with the Treaty of Greenville in 1795 and ending in 1872 when the last reserve was abolished.²³ In a treaty of October 16, 1826, made at a point on the Wabash River near the mouth of the Mississinewa, the Potawatomi tribe relinquished title to most of their lands in Indiana.²⁴

It was estimated there were about 1,500 Indians living within the area now Marshall County as late as 1834. They were located mostly in the south half of the county, in villages along the lakes and rivers. One of these settlements—Menominee Village—was located just north of Twin Lakes and was the largest Indian town within the limits of the county. A second large village was located on the eastern

¹⁹ W. W. Henning, *The Statutes at Large . . . of Virginia*, XI, 552.

²⁰ Clarence E. Carter, *The Territorial Papers of the United States*, I, 3950.

²¹ U. S. Congress, *Annals of Congress*, 6th Congress, 1st Session, p. 1498.

²² For the enabling act, see 14th Congress, 1st Session, p. 1841; for the resolution admitting Indiana to the Union, see 14th Congress, 2nd Session, p. 1348.

²³ For a complete list of the cessions together with a map showing their locations, see William Henry Smith, *History of the State of Indiana*, I, 181-186. For the text of the treaties, see "Treaties between the U. S. and the Indian Tribes" in *Statutes at Large of the United States of America*, VII, 49 *et seq.*; and Charles J. Kappler, *Indian Affairs, Laws and Treaties*, II, 30 *et seq.*, published as U. S. Senate Document No. 452, 57th Congress, 1st Session.

²⁴ Kappler, *op. cit.*, II, 273, 274.

shore of Lake Maxinkuckee and bore the name Nees-wan-gee, from the name of its principal chief.²⁵ The Indians did not molest the white settlers who began settlement in 1832, and by 1838 the last of the Potawatomi were removed by troops under Gen. John Tipton and Col. Abel C. Pepper to reservations west of the Mississippi River,²⁶ leaving the lands of Marshall County open for settlement by the white men, many of whom entered the county by the Michigan Road.

FIRST WHITE SETTLEMENT

Samuel D. Tabor settled in the county prior to 1833. His son, Cyrus Tabor, was born June 26, 1833 and was the first white child born within the present limits of the county.²⁷ The same year Robert Schroeder settled 3 miles north of the present site of Plymouth,²⁸ and in 1834 Abel C. Hickman erected a log cabin on the Michigan Road about 2½ miles south of the site of Argos.²⁹ Stephen White, with his father and mother, arrived from Ohio in 1834 or 1835, settling in what is now West Township. Using only an axe, augur, and handsaw, he built a log cabin 15 feet by 16 feet in size, and was assisted by 3 other white men—the only other settlers in the vicinity—and by 13 Potawatomi Indians from their nearby village and mission on Twin Lakes.³⁰

The first settlers of Marshall County came from southern Ohio, downstate Indiana, and from northern Kentucky. Some settled near Lake Maxinkuckee, others near where the town of Plymouth was later located. Induced by glowing tales told by Government surveyors and axmen, more settlers began to arrive in 1835, but it was not until the following year that settlement began in earnest. The Logans, Voreises, Morrisises, Thompsons, Dicksons, McDonalds, Brownlees, Houghtons, Blakleys, and Lawsons were among those to come in 1836. These first settlers were of Scotch, German, Irish, English, and French descent. The first land office was located in La Porte in 1835 and later moved to Winamac. Land sold at \$1.25 per acre.³¹

²⁵ Daniel McDonald, *A Twentieth Century History of Marshall County, Indiana*, p. 5.

²⁶ *Ibid.*, p. 30.

²⁷ *History of Marshall County, op. cit.*, p. 271.

²⁸ Minnie H. Swindell, *The Story of Marshall County*, p. 23.

²⁹ McDonald, *op. cit.*, p. 137.

³⁰ *History of Marshall County, op. cit.*, p. 441.

³¹ McDonald, *op. cit.*, pp. 61, 67.

CREATION OF MARSHALL COUNTY

Marshall County was created by a statute of the Indiana General Assembly dated February 7, 1835, and effective upon publication. The creation of the county affected St. Joseph County and territory attached to St. Joseph and Elkhart Counties. Marshall County was organized under authority of an act of February 4, 1836, effective April 1 of that year, and supplemental to the act of 1835. The county was named for Chief Justice John Marshall of the United States Supreme Court.³² In the 1835 act the boundaries were defined as "Beginning on the meridian line, at the southwest corner of township thirty-two north, of range one east, thence east twenty-one miles, thence north with the sectional lines to the north-east corner of section four in township thirty-four north, eighteen miles, thence west with the township line twenty-one miles, thence south with the meridian line eighteen miles to the place of beginning."³³ The act of 1836 provided that "The northern boundary line of the county of Marshall shall be extended to an east and west line running through the center of township thirty-five north."³⁴

A law of February 16, 1839 corrected mistakes made in the description of the north boundary of the county and defined the boundaries as they now appear: "By a line beginning at the south east corner of St. Joseph county, thence, south to the line between townships thirty-one and thirty-two north, thence west on said line to the meridian line before mentioned, thence north to where the boundary line of St. Joseph county intersects said meridian line between sections eighteen and nineteen in township thirty-five north, thence east with the line of St. Joseph county to the place of beginning."³⁵

The first meeting of the board of commissioners was held in the log house of Grove Pomeroy, La Porte and Michigan Streets in Plymouth, on May 2, 1836. At this meeting Robert Blair, Abraham Johnson and Charles Osterhaute were the commissioners. The first act of the new commissioners was the appointment of Jeremiah Muncy as clerk for the term.³⁶

³² *History of Marshall County, op. cit.*, p. 22.

³³ L. 1834-1835 (general), ch. 25, sec. 9.

³⁴ L. 1835-1836 (general), ch. 17, sec. 8.

³⁵ L. 1837-1838 (local), ch. 51, sec. 71; 1838-1839 (general), ch. 56, sec. 2.

³⁶ Commissioners' Record, vol. A, p. 1, *see entry* 2.

The meeting was then adjourned to the house of Charles Osterhaute south of Plymouth and near the Michigan road. At the afternoon session the board divided the county into three districts by running lines from west to east at 7 and 14 miles from the northwest corner of the county to corresponding points on the eastern boundary. The northern district was designated as North Township; the middle, Center Township; and the south, Green Township.³⁷ The board established a rate of \$20 for a license to vend groceries and spiritous liquors and appointed John Houghton as county treasurer and Stephen Marsters as assessor.³⁸

LOCATING THE COUNTY SEAT

The act authorizing the formation of Marshall County provided that commissioners from other counties in the State should be selected to locate the county seat. Three of these commissioners, Peter Johnson, Griffin Treadway, and Samuel C. Sample, met with the board of commissioners of Marshall County at a special session July 20, 1836³⁹ and reported the selection of Plymouth as the seat of justice of the new county. In this they were doubtlessly influenced by the central location of the town, and by the payment of \$1,000 and donation of 68 lots by James Blair, John Sering, and William Polk, proprietors of the town. The site owners further agree to donate 1 4/5 acres of land to be used as a public burying ground and 2 acres to be used as a seminary site, and to build a temporary courthouse to be completed by the spring of 1837.⁴⁰ The county seat has never been removed from Plymouth.

The first county election was held August 5, 1836, with 138 votes cast. The following officers were elected: Jonathan A. Liston, State Senator; Abner Caldwell, sheriff; Charles Osterhaute, commissioner; John Houghton, school commissioner; Grove Pomeroy, probate judge; John Johnson, coroner; and Stephen Marsters, who carried Marshall County for joint State Representative, but was defeated for the seat.⁴¹ In October 1836 Samuel C. Sample was appointed president judge of the circuit court of Marshall County; and Sidney Williams and

³⁷ *Ibid.*, vol. A, pp. 1-3.

³⁸ *Ibid.*, vol. A, p. 6.

³⁹ *Ibid.*, vol. A, pp. 19-21.

⁴⁰ McDonald, *op. cit.*, pp. 83, 84.

⁴¹ *History of Marshall County, op. cit.*, pp. 31, 32.

Peter Schroeder, associate judges.⁴² The first court was held in the building erected by the owners of the townsite,⁴³ and meetings of the county commissioners were also held in the courtrooms.

A lucrative source of early county revenue was license fees. John Dixon was granted a license to vend merchandise in 1836; John Compton was granted a hotel license the same year;⁴⁴ and Grove Pomeroy was licensed to keep a tavern in a two-story log and frame structure in Plymouth. The rate for a tavern license in 1836 was set at \$10, and the rate for a license to vend liquors and groceries at \$20.⁴⁵ The commissioners "ordered that revenue for county purposes be assessed at forty cents on the hundred dollars for the present year" and "ordered that revenue for road purposes be assessed at one cent on each hundred dollars for the present year."⁴⁶ During the next year the board ordered a tax of 10 cents levied upon each \$100 in value of property liable to taxation, and that each male inhabitant over the age of 21 and under the age of 50 pay the sum of 50¢ for the purpose of raising county revenue.⁴⁷ Bills against the county were paid by issuing orders which were redeemed by the county treasurer.⁴⁸

With the steady increase in population as new parts of the county became settled, it became necessary to organize new townships from the original three. Union Township was organized March 7, 1837; German Township, May 12, 1838; Bourbon Township, January 6, 1840; Tippecanoe Township, March 8, 1842; Polk Township, March 4, 1845; West Township, March 8, 1854; and Walnut Township, June 9, 1859.⁴⁹ At one time it was proposed to call a part of the county now included in West Township by the name of Menonimee Township, but because of the opposition of several settlers who had profited by the removal of the Indians from that vicinity and so did not want to perpetuate the name of the chief, the township became known as Lake and afterward was changed to West.⁵⁰

⁴² *Ibid.*, p. 74.

⁴³ McDonald, *op. cit.*, pp. 197, 198.

⁴⁴ *Ibid.*, p. 403.

⁴⁵ Commissioners' Record, *op. cit.*, pp. 6, 7.

⁴⁶ *Ibid.*, vol. A, p. 9.

⁴⁷ *Ibid.*, vol. A, p. 317.

⁴⁸ *Ibid.*, vol. A, p. 90.

⁴⁹ *Ibid.*, vol. A, pp. 49, 167, 295, 463; vol. B, p. 119; vol. D, p. 249; vol. E, pp. 94, 96.

⁵⁰ McDonald, *op. cit.*, p. 88.

DEVELOPMENT OF AGRICULTURE

The first settlers in Marshall County found the greater part of the region covered by a heavy growth of timber, principally walnut, oak, and poplar, the most of which was destroyed or made into lumber in clearing the land for farming.⁵¹ This timbered region was interspersed with prairies and marsh land.⁵² For as long as 15 years after the first settlement there was scarcely any tame hay used, the farmers depending almost entirely upon marsh hay and wild hay.⁵³

Among crops grown by the early settlers were corn, wheat, oats, rye, beans, and potatoes.⁵⁴ In the early days of the county, wheat brought 40 cents per bushel delivered in Michiran City, and the first flour used by the settlers was ground at Delphi, more than 65 miles from Plymouth.⁵⁵ The soil was prepared for crops by a jumping plow or breaking shovel drawn by several yoke of oxen. Grain was sown broadcast and dragged in with brush. Corn yielded from 25 to 50 bushels per acre and wheat in favorable years produced 14 to 18 bushels per acre. Potatoes were of better quality and yield than those produced in later years, growing best in the sandy soils of the county.⁵⁶

When first settled, land sold for from \$1.00 to \$1.25 per acre.⁵⁷ After being cleared, this land increased steadily in value, and many acres of swamp and muck land, later drained by tile and open ditching, became tillable. By 1900 the value of farm land in Marshall County ranged from \$20 to \$100 per acre, loam land selling for \$65 to \$100, cultivated sand land from \$30 to \$40, sandy loam from \$65 to \$75, and undrained muck land at \$20 to \$30.⁵⁸

There are nine types of soil in Marshall County, four of these comprising almost 90 percent of the county's area, and the other five found only in scattered areas. Of the four main types, the Marshall types are the largest, covering 77.4 percent of the county, chiefly in the eastern half.

⁵¹ Indiana State Planning Board, *op. cit.*, p. 6.

⁵² History of Marshall County, *op. cit.*, p. 22.

⁵³ *Ibid.*, p. 83.

⁵⁴ Indiana State Planning Board, *op. cit.*, p. 9.

⁵⁵ History of Marshall County, *op. cit.*, p. 84.

⁵⁶ Indiana, *Geological Report, Thirty seventh Annual Report*, pp. 287, 288.

⁵⁷ McDonald, *op. cit.*, p. 61.

⁵⁸ *Ibid.*, p. 75.

These types are best adapted to growing of corn, wheat, clover, vegetables, and small fruits.

The Miami types are found in the western part and around Lake Maxinkuckee, and cover about 11.4 percent of the area of the county. Of these types, Miami black clay loam is especially adapted to growing corn.

Meadow is found in the poorly drained parts of the county along streams and in depressions. Corn and hay are grown to some extent on this soil. Muck occupies low, wet places in the county and is found in spots as large as 3 square miles. When properly drained, muck is well adapted to growing corn and onions.⁵⁹

The Marshall County Agricultural Society, organized in 1855, was the first agricultural organization in the county. The first fair was held on the courthouse grounds, but later the society purchased grounds adjacent to Plymouth on the north. After a reorganization in 1873 and an indifferent success at operating the annual fairs, the grounds were sold to private owners who operated a profit-making fair from 1878 to 1880.⁶⁰

The Pioneer Farmers Club, organized at Bourbon in 1872, staged an annual fair at various places in the vicinity until 1891 when the Club was superseded by a new association called the Bourbon Fair. Thirty-five acres of land were purchased near Bourbon, buildings and tracks constructed, and from the beginning the fairs were a success, operating as late as 1907.⁶¹

Other agricultural organizations in the county included the Maxinkuckee Agricultural Association, formed in 1882 under auspices of the granges and serving Union Township until 1890;⁶² and the Bremen Agricultural Society, organized and holding its first fair in 1889 and later buying grounds and a race track which were in operation as late as 1908.⁶³

Through the years, the pattern of Marshall County agriculture has changed from one of general farming to some emphasis on special crops, particularly poultry raising and fruit growing, and by 1935 there were six commercial orchards in the county.⁶⁴

⁵⁹ Indiana State Planning Board, *op. cit.*, pp. 2, 3.

⁶⁰ *History of Marshall County, op. cit.*, p. 101.

⁶¹ McDonald, *op. cit.*, p. 235.

⁶² *History of Marshall County, op. cit.*, p. 104.

⁶³ McDonald, *op. cit.*, p. 235.

⁶⁴ Indiana State Planning Board, *op. cit.*, p. 11.

In 1940 Marshall County had 2,560 farms with a total of 261,438 acres. All farms are owned and operated by whites.⁶⁵ Farm production in 1939 included 2,326,964 bushels of corn; 344,815 bushels of wheat;⁶⁶ 163,331 bushels of potatoes; 2,780 bushels of popcorn; 33,662 pounds of mint oil;⁶⁷ 8,000,293 gallons of milk; 27,010 pounds of butter; 776,058 gallons of butterfat;⁶⁸ 1,504,896 dozens of eggs; and 487,610 chickens.⁶⁹

GROWTH OF INDUSTRY AND COMMERCE

Primarily an agricultural county, Marshall County nevertheless has always maintained some factories, mills, and shops, and exchange of small processed articles has been brisk. Earliest settlers traded their eggs, butter, and maple sugar, wool, fur, hides, and ginseng to the village merchant for salt, cloth, hardware, and other items of daily use. The first merchants sent the surplus of domestic products to Lake Michigan or Logansport by wagon where boats awaited to carry the inland goods to the markets of Chicago and New Orleans.⁷⁰

In the spring of 1835, Oliver Rose opened the first store in Plymouth in a log structure on what is now La Porte Street. During the same year, Uriah Metcalf and Milburn Coe arrived in Plymouth, and Coe soon erected a sawmill northeast of town.⁷¹ Stores were opened in Plymouth in 1836 by Hobson and Gregory, A. L. Wheeler, Benjamin Kress, Chester Rose, and David Steel,⁷² and Timothy Barbour built a mill for grinding corn at the lower end of Twin Lake. A dam across Wolf Creek and a gristmill were constructed in 1840 by Clark Bliven, and later, probably 1841, a sawmill was built at the north end of this dam.⁷³

In the early 1840's Grove Pomeroy erected a frame building at Michigan and La Porte Streets, Plymouth, which he called the Yellow River Hotel. This hostelry became the

⁶⁵ U. S. Bureau of Census, *Sixteenth Census of the United States, 1940, Agriculture, Indiana*.

p. 14.

⁶⁶ *Ibid.*, p. 50.

⁶⁷ *Ibid.*, p. 58.

⁶⁸ *Ibid.*, p. 38.

⁶⁹ *Ibid.*, p. 44.

⁷⁰ *History of Marshall County, op. cit.*, pp. 217, 218.

⁷¹ McDonald, *op. cit.*, p. 101.

⁷² *History of Marshall County, op. cit.*, pp. 108, 109.

⁷³ McDonald, *op. cit.*, p. 69.

halfway point on the stage line between Logansport and Niles, Michigan, and was later called the Plymouth Hotel. James Bannon kept the post office and a boot and shoe shop in a small wooden building on Michigan Street, and John Cogle operated a grocery and saloon nearby.⁷⁴ A mill for grinding flour was erected in what is now Center Township by Austin Fuller in 1843, was later remodeled, and by 1890 was one of the best mills in northern Indiana.⁷⁵

Comparatively little manufacturing was done in Marshall County before the twentieth century, but in the last four decades manufacturing concerns began the production of gray iron castings, stokers, emery grinders, polishing machines, saw mandrels, metal plating, automobile heaters and radiators, storage batteries, fertilizers, baskets, fruit crates, wire-bound boxes, veneer, furniture, cement burial vaults, butter, cheese, pickles, road equipment, canned goods, men's work clothing, and building and drain tile. The county's factories are located chiefly in Plymouth, Bremen, and Bourbon, and are 38 in number. 951 employees were reported in 1930 with an annual payroll of \$970,056. Products of the factories were valued at \$5,233,029.⁷⁶

The assessed real estate valuation of the county for 1940 was \$19,642,050 with mortgage exemptions of \$1,684,460.⁷⁷

PUBLIC HIGHWAYS

The Yellow and Tippecanoe Rivers in Marshall County have always been too shallow for navigation, and early settlers depended upon the rude trails of Indians and even rougher roads which the whites hewed through dense forests and marked across the swamps and marshes.⁷⁸ The Michigan Road, a strip of land 100 feet wide from Lake Michigan to the Wabash, was secured by treaty from the Potawatomi Indians⁷⁹ through the efforts of Governor James B. Ray. On January 24, 1828, the State Assembly appointed John McDonald of Daviess County, Chester Elliott of Warrick County, and John I. Neely of Gibson County as commissioners

⁷⁴ *Ibid.*, p. 104.

⁷⁵ *History of Marshall County, op. cit.*, p. 443.

⁷⁶ Indiana State Planning Board, *op. cit.*, p. 10.

⁷⁷ Yr. Bk. 1940, p. 72.

⁷⁸ *History of Marshall County, op. cit.*, p. 281.

⁷⁹ Kappler, *op. cit.*, p. 274.

to survey and mark the road from Lake Michigan to Indianapolis.⁸⁰ Surveys for the new road through Marshall County were made in 1828 and 1829, and contracts were let for construction—which meant only the clearing of trees and underbrush—at an average bid of \$287.50 per mile.⁸¹ Funds for road building were raised by sale of lands along the right-of-way.⁸² The Marshall County part of the Michigan Road was ordered opened in 1832, but was impassable for much of the way.⁸³

A subsidiary road, the Yellow River Road between Plymouth and La Porte, was opened in 1834, but was scarcely more than an Indian trail.⁸⁴ With the opening of these first State roads, the county's first post office was established at Plymouth on October 17, 1836. Residents of the county called at this office for their mail, which was brought by a four-horse stage line operating on the Michigan Road between Logansport and South Bend, and by a two-horse stage line from Plymouth to La Porte.⁸⁵

Much interest in farm-to-market roads was evinced by the early residents of the county, and the board of commissioners meeting on June 15, 1836, received a petition—signed by 16 residents—stating that the petitioners were required to "labour under great inconvenience for want of a public road or highway" and asking that a road be built from "the south line of section eight on the Michigan Road and thence running west to Packards saw mill thence west or as near as possible to intersect the Yellow River and between sections five and six in township thirty-four north range one east." The board appointed Samuel D. Tabor, Daniel Roberts, and Uri Metcalf "to view and work out said road."⁸⁶ At a later meeting, Roberts, Tabor, and Metcalf reported that they had "viewed" the road and that in their opinion it would "be of public utility." The road was ordered opened and kept in repair as a public highway.⁸⁷

Each male citizen 21 years of age or over was required

⁸⁰ L. 1828, ch. 70, sec. 1.

⁸¹ Ethel Montgomery, *The Building of the Michigan Road*, p. 21.

⁸² *Ibid.*, p. 31.

⁸³ McDonald, *op. cit.*, p. 147.

⁸⁴ *Ibid.*, p. 148.

⁸⁵ *Ibid.*, p. 358.

⁸⁶ Commissioners' Record, vol. A, pp. 11, 12, *see* entry 2.

⁸⁷ *Ibid.*, vol. A, p. 31.

to perform labor on the county roads adjacent to his residence unless excused because of physical handicap or age.⁸⁸ Although this provision was later abandoned in favor of county and township care of roads, the county's highway system grew steadily—both in mileage and expenditures. In 1921 Marshall County spent more than half a million dollars on roads, and by 1923 there were 8 miles of concrete roads, 294 miles of gravel, 6 of bitulithic concrete, and approximately 750 of dirt.⁸⁹ By 1935, there were only 135 miles of dirt roads remaining in the county; the other 772 miles of road being improved with gravel.⁹⁰

In the present century, Federal and State Highways appeared in the county, and US 31, which follows the general direction of the Michigan Road, crosses the county north and south. Other Federal Highways are US 6, running east and west across the northern part of the county, and US 30 crossing the center of the county from east to west. State Highways 10, 17, and 331 also enter Marshall County.

RAIL TRANSPORTATION

The Indianapolis, Peru and Chicago Railroad was the first to enter the county, reaching Plymouth on July 13, 1856. A few days later the La Porte and Plymouth Railroad completed its track to the county seat, and the Fort Wayne and Chicago Railroad laid tracks to Plymouth in November of the same year, but service over this road to Chicago was not available until 1858. This route later became a part of the Pennsylvania System.⁹¹

In 1868 the railroad from La Porte to Plymouth was extended south to Peru by way of Argos. This road later became a part of the New York, Chicago and St. Louis Railroad—popularly called "Nickel Plate" System—which entered the county at Argos in 1882.⁹²

The Baltimore and Ohio Railroad was completed through northern Marshall County in 1874, running east and west through Bremen and La Paz. An extension of the Pennsylvania System known as the Vandalia began service in 1884 between

⁸⁸ *Ibid.*, vol. A, p. 51.

⁸⁹ Swindell, *op. cit.*, p. 35.

⁹⁰ Indiana State Planning Board, *op. cit.*, pp. 9, 10.

⁹¹ McDonald, *op. cit.*, pp. 330, 331.

⁹² *History of Marshall County, op. cit.*, p. 224.

South Bend and Logansport, passing through Plymouth to the southwestern part of the county.⁹³

Some of these railroads were secured for Marshall County by the voting of taxes to purchase bonds. For one line, the proposed but never-constructed Plymouth, Kankakee and Pacific Railroad, the county was forced to issue orders to taxpayers in Center and West Townships and the City of Plymouth to cover amounts collected but not used for construction.⁹⁴

SCHOOLS AND LIBRARIES

The education of the county's children was a haphazard matter during the years of settlement, when instruction was given by members of pioneer families or by persons who organized subscription schools in the homes of settlers or other available buildings. The school term did not often exceed 4 months, and teachers depended upon the generosity of parents for pay, frequently little more than room and board.⁹⁵

Among the first of the county's schools was one taught by Thomas McDonald near Lake Maxinkuckee during the winter of 1836. The next year a school was opened 2 miles west of Plymouth by William N. Bailey.⁹⁶ The first school in Plymouth was conducted in the courthouse by O. F. Norton in 1837, and J. M. Klinger conducted a school at the county seat from 1840 to 1845. In the latter year a schoolhouse was erected on the county seminary site and was sold in 1854 to the town of Plymouth for \$100.⁹⁷ As early as 1840, there were 3 school buildings in the county, and about 40 students were enrolled. Many schools did not have their own buildings, for approximately 40 subscription schools were organized throughout the county in 1840.⁹⁸

Educational needs were early recognized by county officers, and the commissioners, meeting on June 14, 1836, "ordered that five per cent on the gross amount of revenue for State purposes be reserved out of the same and paid over

⁹³ McDonald, *op. cit.*, pp. 333, 334.

⁹⁴ Commissioners' Record, vol. H, pp. 344-346, *see* entry 2.

⁹⁵ McDonald, *op. cit.*, p. 334.

⁹⁶ Indiana Department of Public Instruction, *Twenty-eight Biennial Report, 1915, 1916*, p. 401, hereinafter cited as *Public Instruction, Report*.

⁹⁷ *History of Marshall County, op. cit.*, p. 133.

⁹⁸ *Public Instruction, Report*, p. 401.

to the school commissioners of said county for the encouragement of common schools in the county aforesaid."⁹⁹ A report of John Houghton, school commissioner, showed that the county had a school fund of \$238 at the end of 1838.¹⁰⁰ and Asabel Mathews reported on May 8, 1839 that he "Paid to supporters of private schools in District no. 5, \$52.77."¹⁰¹ The commissioners ordered the sheriff to permit the citizens of Plymouth and vicinity "to hold a school in the court house in said county providing they will furnish a good and sufficient stove pipe for the stove of said courthouse . . . said house to be left in as good repair as it is now."¹⁰²

Examinations of Marshall County students were supervised by school examiners appointed by the county commissioners. Mark Cummins was the first school examiner, serving from 1851 until 1867.¹⁰³ His successor, A. C. Capron, organized a county teachers' institute and was given \$50 to conduct it.¹⁰⁴ The first county superintendent of schools, Thomas McDonald, was appointed in 1871,¹⁰⁵ and was continued in office by a vote of the township trustees 2 years later.¹⁰⁶

Both public and parochial instruction increased in the county, and in 1870 the Roman Catholic Church established an academy for young ladies and boys in Plymouth, offering a general high school course and special instruction in music.¹⁰⁷ The first public high school began in 1872 at Plymouth and offered courses in mathematics, botany, physical geography, chemistry, physiology, astronomy, philosophy, political economy, history, bookkeeping, English, German, and Latin, in addition to the required study of the Federal Constitution for all new students. A nine-room brick structure was erected to house the high school in 1874, and by 1890 there were 655 pupils enrolled in it and other Plymouth city schools.¹⁰⁸ That year there were 8,755 of school age in Marshall County.¹⁰⁹

⁹⁹ Commissioners' Record, vol. A, p. 9, *see* entry 2.

¹⁰⁰ *Ibid.*, vol. A, p. 215.

¹⁰¹ *Ibid.*, vol. A, p. 234.

¹⁰² *Ibid.*, vol. A, p. 384.

¹⁰³ *Ibid.*, vol. F. p. 144; vol. G, p. 98.

¹⁰⁴ *Ibid.*, vol. G, pp. 98, 139.

¹⁰⁵ McDonald, *op. cit.*, p. 254.

¹⁰⁶ Commissioners' Record, vol. H, p. 230, *see* entry 2.

¹⁰⁷ *History of Marshall County, op. cit.*, p. 138.

¹⁰⁸ *Ibid.*, pp. 133, 134.

¹⁰⁹ U. S. Bureau of the Census, *Compendium of the Eleventh Census of the United States,*

In 1920, Marshall County had 11 high schools, enrolling 868 pupils and employing 58 teachers, and an elementary school enrollment of 4,585 pupils taught by 137 teachers.¹¹⁰ Twenty years later, all schools in the county enrolled more than 5,000 pupils of which 886 were in the two Plymouth elementary schools, 428 in the Plymouth high school, 2,978 in county elementary schools, and 875 in the 8 high schools outside of Plymouth.¹¹¹

Marshall County's largest private school—Culver Military Academy—opened in 1894 with an enrollment of 32 boys.¹¹² Situated on the shores of Lake Maxinkuckee, the academy in 1940 occupied 21 buildings and owned more than 1,000 acres of land. Enrollment for the year was 623 students.¹¹³

Keeping pace with the schools, the county's libraries have increased in number and services. The forerunner was the Marshall County Library Association, organized October 7, 1837, and administered by a board of trustees which required that all borrowers post bond.¹¹⁴ A. L. Wheeler, James Logan, and R. L. Farnsworth—trustees in 1839—were early officials of the association,¹¹⁵ which was aided from time to time by the county commissioners. At a meeting of that body on September 7, 1841, it was "Ordered that the Library Trustees of Marshall County, Indiana be allowed five hundred dollars out of the treasury of said county,"¹¹⁶ and 4 years later the commissioners assumed the management of the library, made the county recorder the librarian, and abolished borrowers' fees.¹¹⁷ The county library ceased operation about 1900,¹¹⁸ but 17 years earlier the Plymouth public school library had been established, and owned 3,073 books by 1890. This collection grew to 5,000 volumes by 1908.¹¹⁹ There were two public libraries—Plymouth and Culver—in Marshall County in 1935, and both were housed in buildings provided by the Carnegie Foundation. The Culver

¹¹⁰ Yr. Bk. 1920, p. 653.

¹¹¹ Yr. Bk. 1940, pp. 994, 1015.

¹¹² McDonald, *op. cit.*, p. 349.

¹¹³ Culver Educational Foundation, *Culver Military Academy, Catalogue, 1940-41*, pp.

87-95.

¹¹⁴ McDonald, *op. cit.*, pp. 231, 232.

¹¹⁵ Commissioners' Record, vol. A, p. 218, *see entry 2*.

¹¹⁶ *Ibid.*, vol. A, p. 443.

¹¹⁷ McDonald, *op. cit.*, p. 232.

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*, p. 233; *History of Marshall County, op. cit.*, p. 136.

Library reported 1,799 borrowers, a circulation of 18,390, and 5,904 volumes owned, while comparative figures for Plymouth were 1,427 borrowers, 61,196 circulation, and 18,813 volumes.¹²⁰

NEWSPAPERS

The first newspaper in Marshall County was the *Plymouth Pilot*, beginning publication in June 1851, with John Q. Howell as owner and publisher. Howell sold out March 1, 1852, to Richard Corbaley, who changed the paper's name to the *Plymouth Banner*. After several more owners, the journal was bought by Ignatius Mattingly in 1856, and the name changed to the *Marshall County Republican*. New owners followed, then a merger with the *Mail and Magnet*—a Granger organ—but the *Republican* was still alive in 1890.¹²¹ As the *Plymouth Pilot*, the paper is still being published (1941).¹²²

The *Marshall County Democrat* was established by Thomas McDonald and H. B. Dickson on November 15, 1855, but Dickson later sold his interest to his partner, and McDonald and his sons continued the *Democrat* until August 11, 1859, when William J. Burns became owner. Publication was suspended until January 26, 1860, when, under the ownership of A. C. Thompson, the paper was named the *Plymouth Weekly Democrat*. The McDonald family regained possession on April 11, 1861, and the journal was published by Louis McDonald, a descendant, as late as 1890.¹²³ The present (1941) successor of the *Weekly Democrat* is the *Plymouth Daily News*, which began about 1885.¹²⁴

The *Bourbon Independent*—of Republican leanings—was established by J. F. Beck in 1865, and the *Bourbon Review*, a weekly, was founded by a Dr. Watt in 1879 to espouse Greenbackism, as did the *Indiana Greenbacker*, the party's State paper begun at Plymouth in 1878.¹²⁵ W. W. Miekels began the *Bourbon Democrat* in 1882 and later sold it to Peter Hahn.¹²⁶ It is probable that the present *Bourbon News Mirror*, beginning about 1871 as the *Bourbon News*, assumed ownership of such earlier newspapers as existed at the time.¹²⁷

¹²⁰ Indiana State Planning Board, *op. cit.*, p. 9.

¹²¹ *History of Marshall County*, *op. cit.*, p. 122.

¹²² Winifred Gregory, *American Newspapers, 1821-1936*, p. 160.

¹²³ *History of Marshall County*, *op. cit.*, p. 134.

¹²⁴ Gregory, *op. cit.*, p. 160.

¹²⁵ *History of Marshall County*, *op. cit.*, pp. 131, 132.

¹²⁶ *History of Marshall County*, *op. cit.*, pp. 287, 288.

¹²⁷ *Ibid.*, p. 327.

George and Lee Sunderland founded in 1878 the weekly *Bremen Banner*, which continued until 1888. The *Bremen Enquirer*, a weekly established November 17, 1885, by Brook H. Bowman,¹²⁸ is still (1941) in existence.¹²⁹

The *Argos Reflector* began in 1881 and was still publishing in 1941. The *Culver Citizen*, started in 1903, likewise has continued to the present.¹³⁰

WELFARE, RECREATION, AND HEALTH

An early act of the General Assembly provided for maintenance of persons who became public charges in private homes at the expense of the public, and overseers of the poor were charged with "farming out" to the lowest bidder those citizens dependent upon public charity.¹³¹ Entries in early Marshall County records illustrate operation of the laws—for example, William News and Abraham Augustine were allowed \$1 each for services rendered the county as overseers of the poor in advertising the farming out of Phineas Beemis, a county pauper;¹³² also David Vanvactor and Frank Dawes, Center Township overseers of the poor, reported that they had "hired Joseph Camp to keep Thomas and Nancy Gibson, paupers, from the tenth day of July 1844 to the first Monday of May 1845, for the sum total of one hundred and forty-nine dollars to be paid quarterly" and that the "said paupers had been in their charge some four weeks previous to the tenth day of July but not regularly farmed out until date aforesaid." The commissioners also "allowed the sum of four dollars for a coffin furnished pauper Gibson . . ." to Luther Wentworth upon an order of the Center Township overseers.¹³³

The county purchased for \$1,671 approximately 239 acres of land in 1849 to be used as a poor farm, and on December 7 of that year, the farm was leased to W. M. Durham who "is to have his firewood and all crops now on the farm, is to keep the farm in good order . . . is to make said paupers work all they are able, and shall give the county a fair credit for labor so done by paupers."¹³⁴ This farm was

¹²⁸ *Ibid.*, p. 131.

¹²⁹ Gregory, *op. cit.*, p. 146.

¹³⁰ *Ibid.*

¹³¹ L. 1817-1818 (general), ch. 14, sec. 3.

¹³² Commissioners' Record, vol. A, p. 506, *see* entry 2.

¹³³ *Ibid.*, vol. B, pp. 56, 89.

¹³⁴ *Ibid.*, vol. C, pp. 326, 375.

used until 1862 when another was purchased and the original farm sold. A third, of 195 acres near Plymouth, was bought in 1895, and a brick building costing \$19,547.50 was erected.¹³⁵ This is the present county infirmary.¹³⁶

Social welfare has long been a concern of the county commissioners, dating to the early years of the county. An example was the order that "John Thompson be exempt from Poll and road tax during the year 1839, and thereafter, so long as he remains infirm in health and body,"¹³⁷ and later, during the Civil War, county records are replete with entries indicating the issuance of welfare orders to the wives and widows of soldiers in the Union Army.¹³⁸ But as the 20th century arrived, and with it wide-spread industrial and agricultural depressions, the system of relieving distress through the county poor farm and by direct relief, the townships were unable to care for all the needy, and in 1933 Federal, State, and county Governments began to supplement these facilities with programs of work relief and social welfare payments.¹³⁹

Much of the county's recreation centers around the many lakes, of which the largest are Maxinkuckee, Koontz, and Twin Lakes. Plymouth maintains two parks, Bremen has a 4-acre park, and the county owns a 64-acre tract at the Lake of the Woods, where a Boy Scout camp operates.¹⁴⁰

The one public hospital in the county, Parkview Hospital in Plymouth, is operated on a non-profit basis by the county's citizens, and has accommodations for 30 patients.¹⁴¹

RELIGION

As early as 1827, French Roman Catholic missionaries had entered the area that is now Marshall County, erected a chapel, and held services for settlers and Indian converts at the north end of Twin Lakes. These services continued until 1838,¹⁴² and during this period such Protestant services as

¹³⁵ *Ibid.*, vol. E, pp. 369, 370, 403.

¹³⁶ Indiana State Planning Board, *op. cit.*, p. 15.

¹³⁷ Commissioners' Record, vol. A, p. 222, *see* entry 2.

¹³⁸ *Ibid.*, vol. E, p. 532.

¹³⁹ *See* the essay entitled "County Department of Public Welfare."

¹⁴⁰ *Ibid.*, p. 8.

¹⁴¹ Indiana State Planning Board, *op. cit.*, p. 7.

¹⁴² McDonald, *op. cit.*, pp. 61, 62.

were held were conducted by itinerant Methodist and Baptist ministers. William Thompson and Henry Logan, two of these early preachers, held services in their homes in what in now Union Township about 1835.¹⁴³ Warren Taylor, an itinerant Wesleyan Methodist preacher, settled in the county the next year.¹⁴⁴

A Baptist Church had been organized in Bourbon Township in 1830, and this group erected a log house of worship near the site of Bourbon. The building was in use as late as 1868, in which year the German Baptists built a church house, followed by the Roman Catholics in 1879.¹⁴⁵ Both groups had been preceded in Bourbon by the United Brethren and Methodist Churches.

The Methodists were the first to organize in Plymouth, antedating by 2 years the Plymouth Presbyterian Church, started in 1838. The Church of God or Adventist Church began to hold meetings in Marshall County in 1846 or 1847 at Pisgah Church near Wolf Creek Mills. Although the Roman Catholic residents of Plymouth had attended services conducted by visiting priests at various locations, it was not until 1861 that St. Michael's Church was organized with Father Volkert as resident priest. A few years later the German Evangelical St. John's Congregation was organized, and erected a building in Plymouth in 1868. St. Paul's Reformed Church of Plymouth was organized in 1881, and built in 1885.¹⁴⁶

A Lutheran Church was organized in Bremen about 1845, meeting to worship in a log cabin on the north bank of the Yellow River. A second church was erected in 1855 and used until the present structure was built 20 years later. The Evangelical Congregation organized in 1849 or 1850, building about one mile northwest of the town, and moving to a frame building in Bremen in 1868. Other churches in the town included the German Reformed Church, organized in 1852; and the United Brethren Church, organized the next year, but joining in 1862 with other congregations to meet at the Union Church in the Bremen cemetery.¹⁴⁷

¹⁴³ *History of Marshall County, op. cit.*, p. 36.

¹⁴⁴ McDonald, *op. cit.*, p. 18.

¹⁴⁵ *History of Marshall County, op. cit.*, pp. 282, 283.

¹⁴⁶ *Ibid.*, pp. 139-145.

¹⁴⁷ *Ibid.*, pp. 323, 324.

POLITICAL TRENDS

From the time of its first Presidential election in 1840 until the turn of the century, Marshall County returned majorities to Democratic candidates— with two notable exceptions; the election of 1860, when the county gave a 153-vote majority to Lincoln, and the election of 1872 when a 27-vote majority went to Horace Greeley, the "mugwump" candidate.¹⁴⁸ Since 1900 Marshall County has demonstrated its political independence, for Theodore Roosevelt carried the county in 1904; the Democrats gained a 70-vote edge in the scrambled three-cornered fight between Democrats, Republicans, and "Bull Moosers" or Progressives in 1908; Woodrow Wilson carried the county by 800 votes in 1912, and by 46 votes four years later;¹⁴⁹ and the county went Republican in the presidential elections of 1920, 1924, and 1928. The Democratic presidential candidate carried the county in 1932 and 1936, but in 1940 a Republican majority was returned.¹⁵⁰

POPULATION

The First Federal Census taken in Marshall County—that of 1840—showed a population of 1,651 persons, which number had increased to 5,343 by 1850. In the next decade, the population more than doubled, and by 1870 there were 20,211 residents in the county.¹⁵¹ Probable reasons for the slow increase in the first few years of the county's existence were the large areas of low and swampy ground, and the attendant epidemics of fever and ague, or the "shakes". Later drainage alleviated this condition, and better means of transportation gave settlement and population steep spurts upward.¹⁵²

By 1880, the population of the county was 23,414, divided between 5,276 urban, and 18,138 rural residents. In another 10 years, urban population had increased to 5,964, and rural declined to 17,854.¹⁵³ This trend from farm to village or

¹⁴⁸ McDonald, *op. cit.*, pp. 377, 378.

¹⁴⁹ Indiana, *Biennial Report of the Secretary of State*, 1908, p. 277; 1912, p. 92; 1916, p.

174.

¹⁵⁰ Yr. Bk. 1920, p. 61; 1924, p. 48; 1928, p. 35; 1932, p. 1469; 1936, p. 929; 1940, p. 1115.

¹⁵¹ U. S. Bureau of the Census, *Tenth Census of the United States, Population*, I, p. 58.

¹⁵² *History of Marshall County*, *op. cit.*, p. 109.

¹⁵³ U. S. Bureau of the Census, *Compendium of the Eleventh Census, 1890, Population*, I,

town continued during the next 30 years,¹⁵⁴ and in 1930 of the county's 25,077 residents, 11,676 were living in the six incorporated municipalities of Bourbon, Plymouth, Bremen, La Paz, Culver, and Argos. Rural population was fairly well distributed, there being less than 1,000 inhabitants in only two townships—Green, lying west of Argos, and Tippecanoe, in the southeast corner of the county.¹⁵⁵ Although the population of Marshall County appears to have been leveling off since 1910, preliminary reports of the 1940 census reported a gain to 25,950 persons in the county.¹⁵⁶

2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

LEGAL STATUS OF THE COUNTY

The county in Indiana is an involuntary corporation, sometimes called a quasi corporation, organized as a political subdivision of the State, solely for governmental purposes. It is a "municipal corporation" and a "municipality" within the meaning of several statutes using those terms. It is an instrumentality of government, exercising the powers delegated by the State and acting for the State. County officers are agents of the State. The authority of the county and its officers and agents is limited to that expressly or impliedly conferred on them by the Indiana General Assembly. Except as limited by the State Constitution, the General Assembly has full power to create, modify, and abolish counties, and to prescribe their powers, governmental organization, and liabilities.¹

¹⁵⁴ *Ibid.*, *Fourteenth Census of the U. S.: 1920, Population, I*, p. 156.

¹⁵⁵ *Ibid.*, *Fifteenth Census of the U. S.: 1930, Population Bulletin, First Series, Indiana*, p. 17.

¹⁵⁶ *Ibid.*, *Sixteenth Census of the U. S.: 1940, Preliminary Population Bulletin*, no. 47, G-11, p. 1.

¹ *Gavin v. Board of County Comrs.*, 104 Ind. 201, 3 N. E. 846 (1885); *State ex rel. Workman v. Goldthait*, 172 Ind. 210, 87 N. E. 133 (1909); *Applegate v. Pettijohn*, 205 Ind. 122, 125, 185 N. E. 911 (1933); *McDermott v. Board of County Comrs.*, 60 Ind. App. 209, 110 N. E. 237 (1915); *Buck v. Indiana Constr. Co.*, 79 Ind. App. 329, 138 N. E. 356 (1923).

"Municipal corporation." Acts 1933, ch. 237, sec. 2 (repealed by Acts 1937, ch. 119, sec. 11). Acts 1929; Burns 60-1102; Baldwin 11392-2. Acts 1933; Burns 61-906; Baldwin 13853-6. Acts 1937; Burns, 1941 suppl., 61 526, 61-622 (d), 64-308; Baldwin, 1937 suppl., 12849-2, 13844-43 (d), 15897-2.

"Municipality." Acts 1909; Burns 60-219; Baldwin 13870. Acts 1917; Burns 60-229; Baldwin 13880. Acts 1923; Burns 60-236; Baldwin 14091. Acts 1937; Burns, 1941 suppl., 61-509 (a); Baldwin, 1937 suppl., 12489-4 (a).

Before the adoption of the Constitution of 1851, the Legislature had full power to enact local laws concerning county matters, and many such laws were enacted; but since 1851 there have been constitutional provisions prohibiting the enactment of local laws concerning several specified subjects affecting county organization and functions.² The General Assembly often passes laws applicable to counties and cities having a specified population and to counties containing cities of a specified population. Such laws are sometimes upheld³ and sometimes held void as being in conflict with these constitutional provisions.⁴ Several laws authorize the appointment of county officials but do not require such appointment.

There are 92 counties in Indiana. Knox County, the oldest, was created by proclamation of the Governor of the Northwest Territory on June 20, 1790.⁵ The counties of Clark⁶ and Dearborn⁷ were created on February 3, 1801 and March 7, 1803, respectively, by proclamation of the Governor of Indiana Territory. The counties of Franklin,⁸ Gibson,⁹

"Offices created by the Legislature can be abolished by the Legislature. The power that creates can destroy. The creator is greater than the creature. The term of an office may be shortened, the duties of the office increased, and the compensation lessened, by the Legislative will." *Rogers v. Calumet National Bank*, 213 Ind. 576, 585, 12 N. E. (2d) 261 (1938).

² Const. 1851, art. 4, secs. 22, 23.

³ *State ex rel. Hargrave v. Reitz*, 62 Ind. 159 (1878); *Campbell v. Indianapolis*, 155 Ind. 186, 57 N. E. 920 (1900); *Bullock v. Robison*, 176 Ind. 198, 93 N. E. 998 (1911); *Wayne Twp. v. Brown*, 205 Ind. 437, 186 N. E. 841 (1933); *Meara v. Brindley*, 207 Ind. 657, 194 N. E. 351 (1935); *Groves v. Board of County Comrs.*, 209 Ind. 371, 199 N. E. 137 (1936); *Crowe v. Board of County Comrs.*, 210 Ind. 404, 3 N. E. (2d) 76 (1936); *Board of County Comrs. v. Crowe*, 214 Ind. 446, 14 N. E. (2d) 907 (1938).

⁴ *Campbell v. Indianapolis*, 155 Ind. 186, 57 N. E. 920 (1900); *Rushville v. Hayes*, 162 Ind. 193, 70 N. E. 134 (1904); *Bumb v. Evansville*, 168 Ind. 272, 80 N. E. 625 (1907); *Kraus v. Lehman*, 170 Ind. 408, 83 N. E. 714 (1908); *Bullock v. Robison*, 176 Ind. 198, 93 N. E. 998 (1911); *Boberg v. Harlem*, 194 Ind. 310, 142 N. E. 705 (1924); *Heffelfinger v. Ft. Wayne*, 196 Ind. 689, 149 N. E. 555 (1925); *Heckler v. Conter*, 206 Ind. 376, 187 N. E. 878 (1933); *Crowe v. Board of County Comrs.*, 210 Ind. 404, 3 N. E. (2d) 76 (1936).

⁵ William Henry Smith, *St. Clair Papers* II, 166 note. George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County*, pp. 21, 514.

⁶ Pence and Armstrong, *op. cit.*, p. 256.

⁷ *Ibid.*, p. 310.

⁸ Acts 1810, ch. 6.

⁹ Acts 1813, ch. 23.

Harrison,¹⁰ Jackson,¹¹ Jefferson,¹² Orange,¹³ Perry,¹⁴ Posey,¹⁵ Switzerland,¹⁶ Warrick,¹⁷ Washington,¹⁸ and Wayne¹⁹ were created by special acts of the General Assembly of Indiana Territory. These fifteen counties are all mentioned in the Constitution of 1816.²⁰ The remaining 77 counties were created by special acts of the General Assembly of the State of Indiana.

The Constitution of 1816 provided: "The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles."²¹ The Constitution of 1816 further provided that the Legislature, "at the time they lay off a new county," should provide certain funds for a public library.²² The Constitution of 1851 provides: "No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced."²³ The Constitution of 1851 further provides: "The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided."²⁴ The Constitution of 1851 provides that a new county may be created out of the counties of Perry and Spencer if approved by election of the voters in those counties in such manner as may be prescribed by law;²⁵ but no such new county has been created. These are all of the constitutional provisions concerning the creation of counties in Indiana.

¹⁰ Acts 1808, ch. 1.

¹¹ Acts 1815, ch. 1.

¹² Acts 1810, ch. 2.

¹³ Acts 1815, ch. 12.

¹⁴ Acts 1814, ch. 7.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, ch. 9.

¹⁷ Acts 1813, ch. 23.

¹⁸ Acts 1813-14, ch. 10.

¹⁹ Acts 1810, ch. 1.

²⁰ Const. 1816, art. 12, sec. 9.

²¹ *Ibid.*, art. 11, sec. 12.

²² *Ibid.*, art. 9, sec. 5.

²³ Const. 1851, art. 15, sec. 7.

²⁴ *Ibid.*, art. 4, sec. 2.

²⁵ *Ibid.*, schedule, par. 15.

The Legislature passed a general law in 1861 providing for the creation of new counties by election in the affected old counties after petition has been presented to the board of commissioners in such counties.²⁶ No new counties have been created since the enactment of this law.

STRUCTURAL DEVELOPMENT OF COUNTY GOVERNMENT

From the organization of Marshall County in 1836,²⁷ the following officers, boards, and courts (arranged alphabetically in three groups) have existed in the county:

OFFICERS

Appraiser (1841-72)²⁸
 Auditor (1841 to date)²⁹
 Clerk of the circuit court (1836 to date)³⁰
 Commissioner of three percent fund (1836-43)³¹
 Coroner (1836 to date)³²
 County agent (1836-52)³³
 County agricultural agent (1917 to date)³⁴
 County assessor (1836-52, 1872-75, 1891 to date)³⁵
 County attendance officer (1897 to date)^{35a}
 County director of public welfare (1936 to date)³⁶
 County health commissioner (1909-38)³⁷
 County health officer (1881-1909, 1938 to date)³⁸
 County highway superintendent (1913-33)³⁹
 County highway supervisor (1933 to date)⁴⁰

²⁶ Acts 1861; Burns 26-301 to 26-310; Baldwin 5014 to 5053.

²⁷ Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

²⁸ See the essay entitled "County Assessor."

²⁹ See the essay entitled "Auditor."

³⁰ See the essay entitled "Clerk of the Circuit Court."

³¹ See the essay entitled "Commissioner of Three Percent Fund (1836-43)."

³² See the essay entitled "Coroner."

³³ See the essay entitled "County Agent (1836-52)."

³⁴ See the essay entitled "County Agricultural Agent."

³⁵ See the essay entitled "County Assessor."

^{35a} See the essay entitled "County Attendance Officer."

³⁶ See the essay entitled "County Department of Public Welfare."

³⁷ See the essay entitled "County Health Officer."

³⁸ *Ibid.*

³⁹ See the essay entitled "County Highway Supervisor."

⁴⁰ *Ibid.*

County poundkeeper (1836-53)⁴¹
 County school commissioner (1836-49)⁴²
 County school examiner (1836-73)⁴³
 County superintendent (1873-1927)⁴⁴
 County superintendent of schools (1927 to date)⁴⁵
 District attorney (1853-73)⁴⁶
 District road supervisors (1836-79)⁴⁷
 Jury commissioners (1881 to date)⁴⁸
 Lister (1836-41)⁴⁹
 Probation officer (1925 to date)⁵⁰
 Prosecuting attorney (1836 to date)⁵¹
 Public health nurse (1939 to date)⁵²
 Recorder (1836 to date)⁵³
 Registration clerks (1911-17)⁵⁴
 Registration inspector (1911-17)⁵⁵
 Registration officer (1889-92, 1933 to date)⁵⁶
 Sheriff (1836 to date)⁵⁷
 Surplus revenue agent (1837-43)⁵⁸
 Surveyor (1836 to date)⁵⁹
 Tax collector (1836-41)⁶⁰
 Treasurer (1836 to date)⁶¹

⁴¹ See the essay entitled "County Poundkeeper (1836-53)."

⁴² See the essay entitled "County School Commissioner (1836-49)."

⁴³ See the essay entitled "County Superintendent of Schools."

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ See the essay entitled "District Attorney (1853-73)."

⁴⁷ See the essay entitled "County Highway Supervisor."

⁴⁸ See the essay entitled "Jury Commissioners."

⁴⁹ See the essay entitled "County Assessor."

⁵⁰ See the essay entitled "Probation Officer."

⁵¹ See the essay entitled "Prosecuting Attorney."

⁵² See the essay entitled "Public Health Nurse."

⁵³ See the essay entitled "Recorder."

⁵⁴ See the essay entitled "Registration Officer."

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ See the essay entitled "Sheriff."

⁵⁸ See the essay entitled "Surplus Revenue Agent (1837-43)."

⁵⁹ See the essay entitled "Surveyor."

⁶⁰ See the essay entitled "Tax Collector (1836-41)."

⁶¹ See the essay entitled "Treasurer."

Trustee of public seminary (1836-53)⁶²

BOARDS

Board of children's guardians (1901-36)⁶³
 Board of commissioners (1836 to date)⁶⁴
 Board of equalization (1836-90)⁶⁵
 Board of finance (1907 to date)⁶⁶
 Board of primary election commissioners (1907 to date)⁶⁷
 Board of registration commissioners (1917-19)⁶⁸
 Board of turnpike directors (1879-1913)⁶⁹
 Commission of public records (1939 to date)⁷⁰
 County board of canvassers (1843 to date)⁷¹
 County board of education (1873 to date)⁷²
 County board of election commissioners (1889 to date)⁷³
 County board of health (1881-1909)⁷⁴
 County board of public welfare (1936 to date)⁷⁵
 County board of review (1891 to date)⁷⁶
 County board of tax adjustment (1932 to date)⁷⁷
 County council (1899 to date)⁷⁸
 County department of public welfare (1936 to date)⁷⁹
 County school fund board (1935 to date)⁸⁰
 Precinct registration board (1911-17, 1919-27)⁸¹
 Township board of registry (1867-69)⁸²

⁶² See the essay entitled "Trustee of Public Seminary (1836-53)."

⁶³ See the essay entitled "Board of Children's Guardians (1901-36)."

⁶⁴ See the essay entitled "Board of Commissioners."

⁶⁵ See the essay entitled "County Board of Review."

⁶⁶ See the essay entitled "Board of Finance."

⁶⁷ See the essay entitled "Board of Primary Election Commissioners."

⁶⁸ See the essay entitled "Registration Officer."

⁶⁹ See the essays entitled "Board of Commissioners" and "County Highway Supervisor."

⁷⁰ See the essay entitled "Commission of Public Records."

⁷¹ See the essay entitled "County Board of Canvassers."

⁷² See the essay entitled "County Board of Education."

⁷³ See the essay entitled "County Board of Election Commissioners."

⁷⁴ See the essay entitled "County Health Officer."

⁷⁵ See the essay entitled "County Department of Public Welfare."

⁷⁶ See the essay entitled "County Board of Review."

⁷⁷ See the essay entitled "County Board of Tax Adjustment."

⁷⁸ See the essay entitled "County Council."

⁷⁹ See the essay entitled "County Department of Public Welfare."

⁸⁰ See the essay entitled "County School Fund Board."

⁸¹ See the essay entitled "Registration Officer."

⁸² *Ibid.*

COURTS

Circuit court (1836 to date)⁸³

Court of common pleas (1853-73)⁸⁴

Court of conciliation (1853-65)⁸⁵

Probate court (1836-53)⁸⁶

In the early days of the county few public officials were needed. The sheriff preserved order generally, took part in conducting elections, and executed the process and orders of the courts. The clerk of the circuit court acted as ministerial officer of the courts, served as clerk of the board doing county business, took part in elections, county finance, and taxation, and was in general a "county clerk"—a name by which he is often called now. The duties of the coroner, prosecuting attorney, recorder, surveyor, and treasurer were similar to their present duties except that taxes were collected by a county tax collector (instead of the treasurer) from 1836 until 1841. County business was transacted by the board of commissioners (composed of three county commissioners) from 1836 until 1899, and by the board of commissioners (composed of three county commissioners) and the county council (composed of seven councilmen) since 1899. The board doing county business had charge of the acquisition, use, and disposition of county property, constructed public buildings, levied taxes, issued licenses, established and constructed roads and bridges, allowed claims against the county, employed several minor public officials, and provided for poor relief. The county had two courts from 1836 until 1853, three from 1853 until 1865, two from 1865 until 1873, and has had one from 1873 to the present time. As a result of increased property valuations and transfers, broadening of the scope of commercial enterprises and transactions, a constant growth in population, and improvements in transportation facilities, taxation and county finance gradually grew from a simple form to a complex form requiring additional public officials. The office of auditor (the financial agent of the county) was created in 1841 to take over many duties of the clerk of the circuit court. The first tax law for the support of schools was passed in 1849. Since the

⁸³ See the essay entitled "Circuit Court."

⁸⁴ See the essay entitled "Court of Common Pleas (1853-73)."

⁸⁵ See the essay entitled "Court of Conciliation (1853-65)."

⁸⁶ See the essay entitled "Probate Court (1836-53)."

adoption of the Constitution of 1851 the public school facilities have steadily improved. In 1899 the "County Reform Law" was enacted, transferring to the newly created county council many duties concerning taxation and finance previously performed by the board of commissioners. In recent years public health service and public welfare assistance have become important functions of the county and its officials.

GENERAL ADMINISTRATION

The general administrative control of county matters is vested in the board of commissioners and the county council.⁸⁷

CONTRACTS

The board of commissioners, as the general governing body of the county, is the agency entrusted with the making of contracts for the purchase of materials and supplies for all county offices, and for the construction of county buildings and other public improvements.⁸⁸ The board cannot bind the county by any contract which is beyond the scope of its powers.⁸⁹ While contracts made by the board are ordinarily in writing, the board may, in certain cases, bind the county by oral contracts.⁹⁰

Though the statutes prescribing the methods of letting contracts vary in detail, their general features are fairly uniform. The board is usually required to prepare specifications of commodities to be purchased or work to be performed, together with plans, drawings, or models, if necessary or desirable, and to place these on file in the auditor's office for public inspection. Notice is then given by publication in newspapers of general circulation that the specifications are on file for examination and that sealed bids will be received up to a certain date. The board, after examination of the bids submitted, is required to award the contract

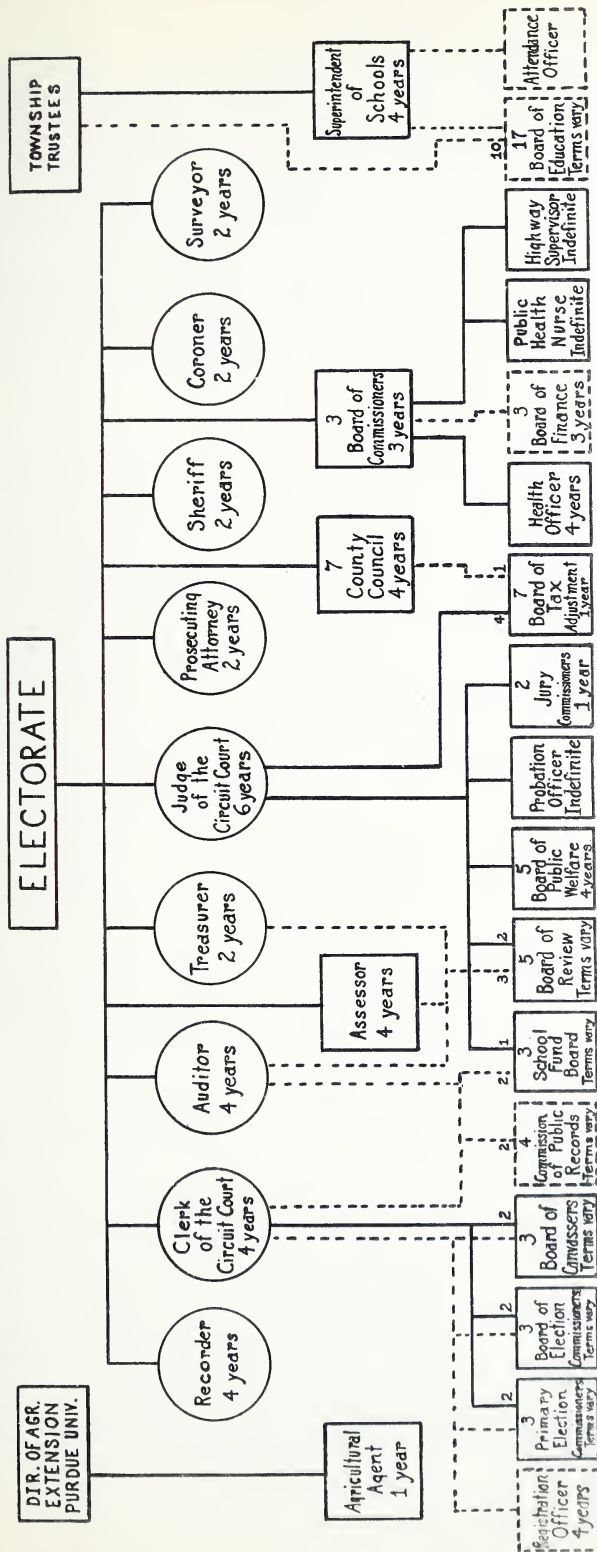
⁸⁷ Many duties of these boards are discussed specifically under appropriate headings of this essay. See also the essays entitled "Board of Commissioners" and "County Council."

⁸⁸ Acts 1899, 1903, 1933; Burns 26-536, 26-537; Baldwin 5401, 5402. Acts 1907; Burns 26-2001 to 26-2009; Baldwin 5100 to 5108. Acts 1913, 1929, 1933; Burns 53-101 to 53-106; Baldwin 14079 to 14083.

Use of prison-made goods. Op. Atty. Gen. 1939, p. 98.

⁸⁹ *Hight v. Board of County Comrs.*, 68 Ind. 575, 577 (1879); *Driftwood Valley Turnpike Co. v. Board of County Comrs.*, 72 Ind. 226 (1880); *Board of County Comrs. v. Bradford*, 72 Ind. 455 (1880).

⁹⁰ *McCabe v. Board of County Comrs.*, 46 Ind. 380 (1874); *Board of County Comrs. v. Ritter*, 90 Ind. 362 (1883).



Commission of Public Records also includes: the judge of the circuit court, and the president of the board of commissioners.
 Board of Tax Adjustment also includes: the Mayor of Plymouth or his appointee, and a member of the county board of education.
 Board of Education also includes: the president of the school board in each city and town in the county (6).

Circles - constitutional offices.
 Squares - statutory offices.
 Figures - number of members and term of office.
 Solid lines - elected or appointed.
 Broken lines - ex officio.

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to the "lowest responsible bidder," or, in some instances, the "lowest and best bidder."⁹¹ The right is usually reserved to the board, however, to reject any and all bids, if they are unsatisfactory, and readvertise for new bids. Contracts cannot be made unless money has previously been appropriated by the county council for the particular purpose involved.⁹²

As a general rule, the time for performance of a contract may extend beyond the official terms of the county commissioners, if the contract is made in good faith.⁹³ A contract employing an attorney is an exception to this rule.⁹⁴

ACTIONS

Ordinarily an action for or against the county is brought by or against the board of commissioners.⁹⁵ An action to recover money from the county cannot be maintained until a claim therefor has been presented to the board of commissioners and disallowed in whole or in part; but the complaint in such suit need not allege such presentation and disallowance, this being a matter of defense.⁹⁶ If the allowance of a claim is illegal, unwarranted, or unauthorized, the board of commissioners may sue to recover from the payee the amount paid. If the board does not bring such suit within 60 days after such allowance, any taxpayer may demand such suit; and if such demand is refused, the taxpayer may sue for the county.⁹⁷ If money is illegally paid out of the county treasury, suit to recover the same from the payee may be maintained in the name of the State on the relation of

⁹¹ The courts have held that provisions of this nature vest some discretion in the board in determining the bidder to whom the contract shall be awarded. *Ness v. Board of County Comrs.*, 178 Ind. 221, 98 N. E. 33 (1912); *Eigenmann v. Board of County Comrs.*, 53 Ind. App. 1, 101 N. E. 38 (1913).

⁹² Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

⁹³ *Board of County Comrs. v. Shields*, 130 Ind. 6, 29 N. E. 385 (1891); *Jessup v. Hinchman*, 77 Ind. App. 460, 133 N. E. 853 (1922).

⁹⁴ *Board of County Comrs. v. Taylor*, 123 Ind. 148, 23 N. E. 752 (1890).

⁹⁵ 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220. *Shillings v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

⁹⁶ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. *Bass Foundry & Mach. Works v. Board of County Comrs.*, 115 Ind. 234, 17 N. E. 593 (1888); *Board of County Comrs. v. Tichenor*, 119 Ind. 562, 29 N. E. 32 (1891); *Mueller v. Board of County Comrs.*, 73 Ind. App. 196, 127 N. E. 15 (1920).

⁹⁷ Acts 1897; Burns 26-811; Baldwin 5262. *Sudbury v. Board of County Comrs.*, 157 Ind. 446, 62 N. E. 45 (1901).

the board of commissioners or the officer making disbursement. If such suit is not brought within 30 days, any citizen or taxpayer may make written demand on the board of commissioners to bring such suit; and if the board fails or refuses to do so, he may bring suit in the name of the State on his own relation.⁹⁸

The board of commissioners, as relator, may sue, in the name of the State, on official bonds to recover county funds.⁹⁹ The auditor, as relator, may sue, in the name of the State, to recover money owing to the county.¹⁰⁰

The treasurer sues in his name, as treasurer, to collect property taxes.¹⁰¹ Suit to collect inheritance taxes is brought in the name of the county.¹⁰² After a claim therefor has been disallowed by the board of commissioners, the taxpayer may sue the board of commissioners for a refund of taxes illegally assessed or collected.¹⁰³

Land needed by the county for public buildings,¹⁰⁴ highways, bridges, culverts,¹⁰⁵ drainage, sewers,¹⁰⁶ or airports¹⁰⁷ may be acquired by the county under its power of eminent domain, on payment of the value and damages fixed by the court in condemnation proceedings.

The action of mandamus may be brought against any county officer to compel the performance of any act which the law specifically requires, or any duty resulting from his office or trust.¹⁰⁸ For example, mandamus lies to compel: The

⁹⁸ Acts 1899; Burns 26-545; Baldwin 5410.

⁹⁹ Acts 1881 (Spec. Sess.); Burns 2-203; Baldwin 18. *Graham v. State ex rel. Board of County Comrs.*, 66 Ind. 386 (1879); *Shilling v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

¹⁰⁰ 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Vanarsdall v. State ex rel. Watson*, 65 Ind. 176 (1879); *Demarest v. Holdeman*, 157 Ind. 467, 62 N. E. 17 (1901).

¹⁰¹ Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

¹⁰² Acts 1931; Burns 6-2415; Baldwin 15953.

¹⁰³ Acts 1919; Burns 64-2819; Baldwin 15881. Acts 1923; Burns 64-2824; Baldwin 15884. *Cody v. Board of County Comrs.*, 204 Ind. 87, 183 N. E. 404 (1932); *Board of County Comrs. v. Millikan*, 207 Ind. 142, 190 N. E. 185 (1934).

¹⁰⁴ Acts 1899; Burns 26-2101; Baldwin 5109.

¹⁰⁵ Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1941 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

¹⁰⁶ Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

¹⁰⁷ Acts 1920 (Spec. Sess.); Burns 14-302; Baldwin 4022.

¹⁰⁸ Acts 1881 (Spec. Sess.), 1911; Burns 3-2202; Baldwin 1091.

auditor to draw warrants on the county treasury;¹⁰⁹ the board of commissioners to take action on claims that have been properly presented,¹¹⁰ to approve official bonds,¹¹¹ and to repair or rebuild bridges;¹¹² and the county council to make appropriations.¹¹³

In some instances a county officer can be enjoined from acting illegally. Some of the acts prevented by injunction are: Collection of illegal taxes;¹¹⁴ illegal issuance of licenses;¹¹⁵ doing of illegal acts that would increase taxation;¹¹⁶ payment of illegal claims;¹¹⁷ and making an illegal contract.¹¹⁸

The county is not liable for damages resulting from the acts or omissions of its officers, except where such liability is imposed or permitted by statute.¹¹⁹

Failure of the county council to make appropriation for the debt or demand constituting the subject matter of the suit does not prevent maintenance of the suit or recovery of judgment.¹²⁰ No judgment against a county is enforceable except out of moneys appropriated by the county council for that purpose; but, by mandamus proceedings (against the county council, board of commissioners, and auditor), the county council may be compelled to make such appropriation.¹²¹

Mandamus does not lie to compel county treasurer to pay warrant where it is not alleged that the warrant was presented to him and payment was refused. *Finerty v. State ex rel. Greenwald*, 215 Ind. 346, 19 N. E. (2d) 846 (1939).

¹⁰⁹ *Gill v. State ex rel. Board of County Comrs.*, 72 Ind. 266 (1880).

¹¹⁰ *Board of County Comrs. v. State ex rel. Reed*, 179 Ind. 644, 102 N. E. 97 (1913).

¹¹¹ *State ex rel. Taylor v. Board of County Comrs.*, 124 Ind. 554, 25 N. E. 10 (1890).

¹¹² *State ex rel. Roundtree v. Board of County Comrs.*, 80 Ind. 478 (1881).

¹¹³ *Shelby County Council v. State ex rel. School City of Shelbyville*, 155 Ind. 216, 57 N. E. 712 (1900).

¹¹⁴ *Hobbs v. Board of County Comrs.*, 103 Ind. 575, 3 N. E. 263 (1885).

¹¹⁵ *Marriage license. Sweigart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

¹¹⁶ *State ex rel. Davis v. Board of County Comrs.*, 165 Ind. 262, 74 N. E. 1091 (1905).

¹¹⁷ *Warren Agri. Joint Stock Co. v. Barr*, 55 Ind. 30 (1876). But see *Bently v. Board of County Comrs.*, 102 Ind. App. 533, 200 N. E. 499 (1936).

¹¹⁸ *Farris v. Jones*, 112 Ind. 498, 14 N. E. 484 (1887).

¹¹⁹ *State ex rel. Board of County Comrs. v. Board of County Comrs.*, 170 Ind. 595, 608, 85 N. E. 513 (1908).

¹²⁰ Acts 1899; Burns 26-527; Baldwin 5391. *Board of County Comrs. v. Pike Civil Twp.*, 168 Ind. 535, 81 N. E. 489 (1907).

¹²¹ Acts 1941, ch. 17. Acts 1899, 1941; Burns, 1941 suppl., 26-528; Baldwin, 1941 suppl., 5392.

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all suits in which the county may be interested or involved,¹²² including suits to collect taxes and tax penalties¹²³ and suits against officers or on their bonds.¹²⁴ The prosecuting attorney must make a report to the board of commissioners each month showing the causes in which he appeared in person or by deputy.¹²⁵

RECORDATION

The recordation of deeds, mortgages, plats, and other private documents for purposes of preservation and public notice is a most important function of the county, since commerce and titles to property are directly affected thereby.¹²⁶ To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,¹²⁷ and the intangible tax thereon (if any) must be paid.¹²⁸ No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.¹²⁹

Formerly the public property of the county was subject to execution to satisfy such judgment. 2 Rev. Stat. 1852; Burns 26-803; Baldwin 5253.

¹²² 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

¹²³ Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1837; Burns, 1941 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-603, 64-719, 64-1319, 64-1519, 64-2203; Baldwin 15576, 15633, 15723, 15773, 15815. Acts 1932 (Spec. Sess.); Burns 61-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1941 suppl., 64-2628; Baldwin, 1937 suppl., 16009.

¹²⁴ Acts 1917; Burns 60-227; Baldwin 13878.

¹²⁵ Acts 1933; Burns 49-2695; Baldwin 7550.

¹²⁶ Acts 1935; Burns, 1941 suppl., 51-504; Baldwin, 1935 suppl., 13227-4. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Acts 1897; Burns 56-120; no Baldwin. Acts 1877; Burns 56-716; Baldwin 998.

Right to rely on record of mortgage. Vincennes Savings and Loan Assn. v. St. John, 213 Ind. 171, 12 N. E. (2d) 127 (1938).

¹²⁷ Rev. L. 1831, ch. 41, secs. 7, 11. Acts 1905; Burns 43-501; Baldwin 12413. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1941 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14731.

The acknowledgment or proof must be recorded with the instrument. *Id.*

¹²⁸ Acts 1933; Burns 64-929; Baldwin 15927.

¹²⁹ 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1309; Baldwin 15746.

The recorder and clerk of the circuit court are the recording officers. Lists of documents which may be recorded by them are included in the essays entitled "Recorder" and "Clerk of the Circuit Court."

Indiana has no system of registration of land titles. A bill to establish the "Torrens System" of registration of land titles was introduced in the 1939 session of the General Assembly but was defeated.

Indiana has a system of registering titles to motor vehicles (law administered by the State Bureau of Motor Vehicles),¹³⁰ but has no system of registering titles to other personal property.

JUDICIARY

Marshall Circuit Court has been in active existence ever since 1836. The following courts formerly existed in Marshall County: Probate court (1836-53); court of common pleas (1853-73); and court of conciliation (1853-65).¹³¹

The circuit court has original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the State laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction); proceedings to punish the violators of town ordinances; all civil actions at law; all suits in equity; divorce and alimony proceedings; declaratory judgment proceedings; juvenile matters; insanity inquests and commitments; election contests; proceedings for removal of county officers; quo warranto proceedings; proceedings for mandate, prohibition, and injunction; proceedings to quiet title to real estate; partition proceedings; ne exeat proceedings; habeas corpus proceedings; proceedings to commit persons to hospitals operated by Indiana University; eminent domain proceedings; proceedings to establish drainage districts and assessments; proceedings for change of names of persons; adoption proceedings; receiverships; bastardy proceedings; guardianships; probate of wills; and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters. In connection with its jurisdiction to

¹³⁰ Acts 1921, 1931, 1935, 1939; Burns, 1941 suppl., 47-301; Baldwin, 1939 suppl., 11128.

¹³¹ See the essays entitled "Circuit Court," "Probate Court (1836-53)," "Court of Common Pleas (1853-73)," and "Court of Conciliation (1853-65)."

administer decedents' estates, the court administers certain provisions of the inheritance tax laws.¹³²

The circuit court has appellate jurisdiction to review decisions of justices of the peace; city courts; board of commissioners; board of commissioners and county council acting jointly concerning condemnation of schoolhouses; board of review fixing value of property for taxation; taxing authorities determining that property is taxable; board of public works or board of park commissioners of any city in the county (or city council performing such functions); and other inferior tribunals when no express direction is given as to the court to which the appeal lies.¹³³

In each township in Marshall County there is a justice of the peace, elected for a 4-year term by the voters of the township. He has original jurisdiction (concurrent with the circuit court) of certain civil actions involving \$200 or less, with power to render judgment up to \$300 on confession; exclusive original jurisdiction of misdemeanors under the State laws punishable only by fine not exceeding \$3; original jurisdiction (concurrent with the circuit court) of all other misdemeanors under the State laws punishable by fine only, with power to assess fines only up to \$25; and jurisdiction as a committing magistrate in criminal cases under the State laws. His civil jurisdiction is limited to his township, but his criminal jurisdiction is coextensive with his county. Each justice of the peace must pay to the county treasurer all fines which he collects. Marshall County has had justices of the peace since its organization in 1836.¹³⁴

Arranged according to subject matter, the courts existing in Marshall County from 1836 to date have had original jurisdiction as follows:— *Civil actions at law*: (a) circuit court (1836 to date); (b) probate court (1836-53); (c) court of common pleas (1853-73); *criminal cases*: (a) circuit court (1836 to date); (b) court of common pleas (1853-73); *chancery cases*: (a) circuit court (1836 to date); (b) probate court (1836-53); (c) court of common pleas (1853-73); *probate matters, settlement of decedents' estates*.

¹³² See the essay entitled "Circuit Court."

¹³³ *Ibid.*

¹³⁴ Const. 1816, art. 5, sec. 12. Const. 1851, art. 7, sec. 14. Rev. Stat. 1838, ch. 7 (second act), sec. 1; ch. 58, secs. 1, 5, 14, 18, 19, 39. Rev. Stat. 1843, ch. 4, secs. 21-25; ch. 47, secs. 1-13; ch. 55, secs. 1, 5-8. 2 Rev. Stat. 1852, ch. 1, secs. 1-3, p. 449; ch. 6, secs. 1-9, pp. 497, 498. Acts 1913; Burns 5-101; Baldwin 1828. 2 Rev. Stat. 1352, Acts 1861; Burns 5-201, 5-208; Baldwin 1857, 1859. Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

and guardianship: (a) circuit court (1873 to date); (b) probate court (1836-53); (c) court of common pleas (1853-73); *juvenile matters:* (a) circuit court (1875 to date); (b) court of common pleas (1867-73); *conciliation:* court of conciliation (1853-65); *naturalization proceedings:* (a) circuit court (1836 to date); (b) court of common pleas (1853-73).¹³⁵

Decisions of the circuit court were reviewable by the Supreme Court of Indiana until 1891, and since 1891 by the Supreme Court of Indiana or the Appellate Court of Indiana. Decisions of the probate court (1836-53) and the court of common pleas (1853-73) were reviewable by the Marshall Circuit Court or the Supreme Court of Indiana. Proceedings in the court of conciliation could not be appealed to another court.¹³⁶

In 1937 the Supreme Court of Indiana said: "Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal view, and even though it shocks our sense of justice and fairness."¹³⁷

The clerk of the circuit court, in person or by deputy, performs for the circuit court the numerous statutory and customary duties of clerk. He served as clerk of the probate court (1836-53) and court of common pleas (1853-73). The court of conciliation (1853-65) had no clerk.¹³⁸

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes the process of the court. He performed similar duties for the probate court (1836-53), court of common pleas (1853-73), and court of conciliation (1853-65).¹³⁹ Constables perform similar duties for the justices of the peace.¹⁴⁰ Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his

¹³⁵ See the essays entitled "Circuit Court," "Probate Court (1836-53)," "Court of Common Pleas (1853-73)," and "Court of Conciliation (1853-65)."

¹³⁶ *Ibid.*

¹³⁷ State v. Brown, 213 Ind. 118, 124, 11 N. E. (2d) 679 (1937).

¹³⁸ See the essays entitled "Circuit Court," "Probate Court (1836-53)," "Court of Common Pleas (1853-73)," and "Court of Conciliation (1853-65)."

¹³⁹ *Ibid.* See the essay entitled "Sheriff."

¹⁴⁰ 2 Rev. Stat. 1852; Burns 5-601; Baldwin 1865. Acts 1905; Burns 9-710; Baldwin 2081. 2 Rev. Stat. 1852; Burns 49-3401, 49-3403, 49-3407; Baldwin 16116, 16119, 16122.

deputy perform these duties.¹⁴¹ The coroner performs these duties of the sheriff in the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office.¹⁴² If the coroner is also absent or incapacitated, the judge appoints an elisor to perform these duties of the sheriff.¹⁴³ The prosecuting attorney acts as attorney for the State in criminal cases under State laws and as attorney for the county and State in certain civil cases.¹⁴⁴ The probation officer (appointed by the judge of the circuit court for an indefinite term) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.¹⁴⁵ The county director of public welfare performs duties of the probation officer when so directed by the circuit court.¹⁴⁶ The court reporter (appointed by the judge for an indefinite term) takes down in shorthand or stenotypy, thereafter transcribes into typewriting, as directed by the the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.¹⁴⁷ Two jury commissioners (annually appointed by the circuit judge) prepare lists of names from which the grand juries and petit juries are drawn.¹⁴⁸ The court page

¹⁴¹ 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, ch. 6, sec. 4, p. 11. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 363; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. Adams v. State, 214 Ind. 603, 17 N. E. (2d) 84 (1938). Op. Atty. Gen. 1939, p. 312.

¹⁴² 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

¹⁴³ 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

¹⁴⁴ 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Freed v. Martin Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938); State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938). See the essay entitled "Prosecuting Attorney."

¹⁴⁵ Acts 1903, ch. 23, sec. 2. Acts 1925, ch. 218. Acts 1941; Burns, 1941 suppl., 9-2348, 9-2849; Baldwin, 1941 suppl., 1758-20, 1758-21.

¹⁴⁶ Acts. 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

¹⁴⁷ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. Adams v. State, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

¹⁴⁸ Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Crickmore v. State, 213 Ind. 586, 12 N. E. (2d) 266 (1938); Johnson v. State, 213 Ind. 639, 14 N. E. (2d) 96 (1938); Foreman v. State, 214 Ind. 79, 14 N. E. (2d) 546 (1938).

(appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.¹⁴⁹

Formerly juries were used in coroner's inquests, but such juries were abolished in 1879. The coroner acts in a nonjudicial capacity when holding inquests, and his findings are not binding upon any person.¹⁵⁰

LAW ENFORCEMENT

The Constitution provides that all judicial officers shall be conservators of the peace in their respective jurisdiction,¹⁵¹ and that all criminal prosecutions shall be carried on "in the name, and by the authority, of the State."¹⁵²

Investigations of alleged violations of criminal law are conducted by the prosecuting attorney,¹⁵³ the sheriff,¹⁵⁴ or the coroner,¹⁵⁵ cooperating with one another and with State and Federal bureaus of law enforcement;¹⁵⁶ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.¹⁵⁷

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.¹⁵⁸

¹⁴⁹ Dunn v. State ex rel. Corydon, 204 Ind. 390, 184 N. E. 535 (1933). Op. Atty. Gen. 1939, p. 312.

¹⁵⁰ See the essay entitled "Coroner."

¹⁵¹ Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

¹⁵² Const. 1816, art. 5, sec. 11. Const. 1851, art. 7, sec. 18.

¹⁵³ 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459. State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

¹⁵⁴ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

¹⁵⁵ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1941 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

¹⁵⁶ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

¹⁵⁷ Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

"An inquiry of a grand jury is not limited to the consideration of that which would be admissible on the trial of a cause. Any testimony which might legally affect the finding of or refusal to find an indictment is material on a grand jury investigation." Maddox v. State, 213 Ind. 537, 12 N. E. (2d) 947 (1938).

¹⁵⁸ Acts 1905; Burns 9-826; Baldwin 2122.

The grand jury consists of six members,¹⁵⁹ at least five of whom must concur in the finding of an indictment. When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill" and signs his name thereunder. The indictment is also signed by the prosecuting attorney.¹⁶⁰

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.¹⁶¹ He may also prosecute on affidavit all criminal offenses under the State laws, other than treason and murder.¹⁶²

Actual enforcement of criminal law in the county is entrusted to the sheriff and the coroner.¹⁶³ As law enforcement officers, they have identical powers and duties;¹⁶⁴ in practice, however, the coroner performs few of these duties, except in the absence or incapacity of the sheriff. These officers make arrests in accordance with warrants issued by the circuit court or by the clerk of the circuit court, based on indictments returned by the grand jury or affidavits filed with the court.¹⁶⁵ Warrants for arrest may also be

¹⁵⁹ Acts 1905; Burns 9-801; Baldwin 2097.

Const. 1851, art. 7, sec. 16; art. 15, sec. 4, concerning eligibility and oath of officers, do not apply to grand jurors. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

¹⁶⁰ Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State*, 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950 (1938).

Endorsement by prosecuting attorney. *Taylor v. State*, 113 Ind. 471, 16 N. E. 183 (1888); *Robinson v. State*, 177 Ind. 263, 97 N. E. 929 (1912); *Hamer v. State*, 200 Ind. 403, 163 N. E. 91 (1928).

Statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State*, 213 Ind. 560, 12 N. E. (2d) 270 (1938).

¹⁶¹ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

¹⁶² Acts 1905, 1927; Burns 9-908; Baldwin 2131.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this later procedure the Legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." The court cannot compel the prosecuting attorney to approve such affidavit. *State ex rel. Free v. Martin Circuit Court*, 214 Ind. 152, 14 N. E. (2d) 910 (1938).

"In him [the prosecuting attorney] is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. Judges and courts cannot substitute their discretion for that of the prosecuting attorney." *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

¹⁶³ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2.

¹⁶⁴ 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

¹⁶⁵ Acts 1881 (Spec. Sess.); Burns 3-302; Baldwin 725.

issued by the coroner, when the results of an inquest indicate that a felony was committed.¹⁶⁶ Arrest without warrant can be made for a felony, where the arresting officer has reliable information of the commission of the crime by the person arrested; an arrest without warrant can be made for a felony or misdemeanor committed within view of the arresting officer.¹⁶⁷ A warrant issued to the sheriff of the county in which the indictment was found or the affidavit was filed may be executed by him in any county of the State.¹⁶⁸

In the Constitution there are many provisions for the benefit of persons accused of crime. Justice must be administered freely, and without purchase; speedily, and without delay.¹⁶⁹ The accused has the right to a public trial in the county in which the offense was committed; the right to be heard in person and by counsel; the right to demand the nature and cause of the accusation against him, and to have a copy thereof; the right to meet the witnesses face to face; and the right to have compulsory process for obtaining witnesses in his favor.¹⁷⁰ No person can be put in jeopardy twice for the same offense. In a criminal prosecution no person can be compelled to testify against himself.¹⁷¹ A person arrested or confined in jail must not be treated with unnecessary rigor.¹⁷² Excessive bail must not be required. Excessive fines must not be imposed. Cruel and unusual punishments must not be inflicted. All penalties must be proportioned to the nature of the offense.¹⁷³ Offenses other than murder and treason are always bailable by sufficient sureties. Murder and treason are bailable unless the proof of guilt is evident or the presumption of guilt is strong.¹⁷⁴ The penal laws of Indiana are founded on the principles of

¹⁶⁶ 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

¹⁶⁷ *Doering v. State*, 49 Ind. 56, 19 Am. Rep. 669 (1874); *Hart v. State*, 195 Ind. 384, 145 N. E. 449 (1924).

¹⁶⁸ Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

¹⁶⁹ Const. 1851, art. 1, sec. 12.

Discharge for delay in prosecution. Acts 1905; Burns 9-1403, 9-1404; Baldwin 2239, 2240.

Sullivan v. State, 215 Ind. 343, 19 N. E. (2d) 739 (1939).

¹⁷⁰ Const. 1851, art. 1, sec. 13.

¹⁷¹ *Ibid.*, sec. 14.

¹⁷² *Ibid.*, sec. 15.

¹⁷³ *Ibid.*, sec. 16.

¹⁷⁴ *Ibid.*, sec. 17.

reformation, and not of vindictive justice.¹⁷⁵ In all criminal cases the jury has the right to determine both the law and the facts.¹⁷⁶ The privilege of the writ of habeas corpus (to obtain release from unlawful detention) cannot be suspended, except in case of rebellion or invasion; and then only if the public safety demands such suspension.¹⁷⁷ No conviction can "work corruption of blood or forfeiture of estate."¹⁷⁸ The Governor has the power to grant reprieves, commutations, and pardons, and to remit fines and forfeitures.¹⁷⁹

The county jail is maintained by the county,¹⁸⁰ the sheriff being responsible for its management.¹⁸¹ Inspection or investigation is made by the grand jury at the beginning of each regular session,¹⁸² and by the board of commissioners every 3 months.¹⁸³

FINANCE

APPROPRIATIONS AND BUDGETS

The power of making appropriations of money to be paid out of the county treasury has been vested exclusively in the county council since 1899.¹⁸⁴ Before 1899 the board of commissioners performed the duties now performed by the county council.¹⁸⁵

No money can be drawn from the county treasury not in pursuance of appropriation therefor,¹⁸⁶ except in the following instances: (a) Money belonging to the State and commanded by law to be paid into the State treasury; (b) money belonging to any school fund; (c) money belonging to any fund of any township, town, or city, and commanded by law to be paid to such municipality; (d) money, due to any person, which

¹⁷⁵ *Ibid.*, sec. 18.

¹⁷⁶ *Ibid.*, sec. 19.

¹⁷⁷ *Ibid.*, sec. 27.

¹⁷⁸ *Ibid.*, sec. 30.

¹⁷⁹ *Ibid.*, art. 5, sec. 17.

¹⁸⁰ 1 Rev. Stat. 1852; Burns 13-1001; Baldwin 13448.

¹⁸¹ 1 Rev. Stat. 1852; Burns 13-1004; Baldwin 13453.

¹⁸² 1 Rev. Stat. 1852; Burns 13-1002; Baldwin 13449.

¹⁸³ Acts 1909; Burns 13-1008; Baldwin 13460.

¹⁸⁴ Acts 1899; Burns 26-515; Baldwin 5379. *Thirty-ninth Annual Conference of State Tax*

Board, pp. 8-14.

¹⁸⁵ 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

¹⁸⁶ Acts 1899; Burns 26-515; Baldwin 5379.

has been paid into the county treasury pursuant to public improvement assessments on persons or property of the county in territory less than the whole county; (e) money, due to any person, which has been paid into the treasury for redemption from any tax or other sale; or money so due that has been paid in pursuant to authority of law as a tender or payment to such person; (f) taxes erroneously paid; (g) funds received from the State or Federal Governments for welfare assistance or public work projects;¹⁸⁷ and (h) salaries fixed by law.¹⁸⁸

Before the Thursday following the first Monday in August each year, the various officials of the county (including township trustees or assessors) submit to the auditor estimates of expenditures for the ensuing calendar year and estimates of probable revenue to be received from the State during that period. The estimates are kept on file in the auditor's office, subject to inspection by any taxpayer of the county. The auditor publishes notice of the aggregate amount of each of such estimates, and prepares an ordinance making an appropriation by items for the ensuing calendar year for the various purposes for which all of the estimates are required. At the annual meeting of the county council on the first Tuesday after the first Monday in September, the auditor submits all of the estimates to the county council and makes recommendations with reference thereto. The council, at that meeting, considers the estimates and the proposed ordinance, and makes such changes as are deemed necessary. A three-fourths vote is required to make appropriation for any item not contained in any estimate or for a greater amount than that named in any item of any estimate. The ordinance making the appropriation for the ensuing year is adopted after being read on at least 2 separate days. This appropriation is called the annual county budget, and the estimates of expenditures and revenue are called budget estimates.¹⁸⁹

¹⁸⁷ Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386.

¹⁸⁸ Blue v. State ex rel. Powell, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

Salaries fixed by judge of circuit court for bailiff and page. Op. Atty. Gen. 1939, p. 312.

¹⁸⁹ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

Appropriations can be made only by the passage of ordinances. State ex rel. Davis v. Board of County Comrs., 165 Ind. 262, 74 N. E. 1091 (1905).

The statutory provision requiring an ordinance for an appropriation to be read on 2 separate days is mandatory, and on failure to comply therewith the ordinance is invalid. Van Der Veer v. State ex rel. Herron, 97 Ind. App. 1, 165 N. E. 265 (1929).

If an emergency arising after the adjournment of the annual meeting requires funds supplementary to those originally included in the annual budget, additional appropriations may be made in an ordinance passed by a two-thirds vote of all the members of the council at a special meeting, after estimates are prepared and submitted in the manner required for annual estimates. If the aggregate amount of the requested appropriation exceeds \$15,000, the ordinance must be read on 2 separate days before passage.¹⁹⁰ Such additional appropriations must be approved by the State Board of Tax Commissioners.¹⁹¹

When any item of appropriation remains unexpended at the end of the calendar year for which it was appropriated, the amount thereof reverts to the general fund of the county, and no warrant can be drawn thereon. However, time for withdrawal is extended where payment was withheld during such year because of an injunction which was later dissolved.¹⁹² It is unlawful to overdraw the amount of any item of appropriation or to use the funds of any item for an unauthorized purpose.¹⁹³

No county official or court has power to bind the county by any contract, express or implied, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred.¹⁹⁴

The surveyor's budget estimates of costs of maintenance of roads is under the control of the board of commissioners, and may be changed at any time by the board without the approval of the surveyor or the county highway supervisor. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

¹⁹⁰ Acts 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

The council's determination of emergency is not conclusive on the courts. *State ex rel. Kautz v. Board of County Comrs.*, 204 Ind. 484, 184 N. E. 780 (1933).

The words "emergency growing out of a flood, fire, pestilence, war, or other major disaster" are in Acts 1937; Burns, 1941 suppl., 61-312; Baldwin, 1937 suppl., 15897-6.

Provisions concerning township poor relief and public welfare services. Acts 1935; Burns, 1941 suppl., 52-174; Baldwin, 1935 suppl., 13320-31. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1303; Baldwin, 1937 suppl., 14078-100. *O'Rourke v. Board of County Comrs.*, 215 Ind. 195, 18 N. E. (2d) 380 (1939).

¹⁹¹ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64 1331; Baldwin, 1935 suppl., 15735.

¹⁹² Acts 1899, 1903, 1905; Burns 26-524; Baldwin 5388.

¹⁹³ Acts 1899; Burns 26-523; Baldwin 5387. Acts 1899, 1935; Burns, 1941 suppl., 26-522.

Baldwin, 1935 suppl., 5386.

¹⁹⁴ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391. *Op. Atty Gen.* 1939, p. 312.

TAXATION

The power of taxation is inherent in the State, and is a legislative power limited only by the provisions of the Constitution.¹⁹⁵ The Constitution provides that "The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law."¹⁹⁶ This section applies only to a general assessment on property according to its value, and does not apply to excise taxes.¹⁹⁷ Exemptions are discussed hereinafter. In construing tax statutes, a liberal rule of interpretation must be indulged in to aid the taxing power of the State.¹⁹⁸

In Indiana there are poll taxes, excise taxes, and property taxes. A poll tax is a tax assessed on the person. An excise tax is a tax on privileges, and includes taxes on occupations, inheritance, sale of gasoline, and the like. Laws imposing excise taxes are sometimes called "internal revenue laws." The property tax (also known as ad valorem tax) is the tax on real and personal property based on value, and it constitutes the largest part of the county revenue. Property may be subject to an excise tax and also a property tax. Excise taxes administered by county officers are discussed hereinafter under the heading "Excise Taxes and Licensing."

But lack of appropriation does not prevent entry of a judgment binding the county, where the court has jurisdiction of the parties and subject matter of the action. Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. McGregor, 171 Ind. 634, 87 N. E. 1 (1909).

¹⁹⁵ State ex rel. Goodman v. Halter, 149 Ind. 292, 47 N. E. 665 (1897); Dunn v. Indianapolis, 208 Ind. 630, 196 N. E. 528 (1935); Miles v. Department of Treasury, 209 Ind. 172, 199 N. E. 372 (1935); State ex rel. Jackson v. Middleton, 215 Ind. 219, 19 N. E. (2d) 470 (1939). *Thirty-eighth Annual Conference of State Tax Board*, pp. 75-89.

¹⁹⁶ Const. 1851, art. 10, sec. 1.

The legislative power to exempt from taxation extends only to property "for municipal, education, literary, scientific, religious or charitable purposes." Stark v. Kreyling, 207 Ind. 128, 188 N. E. 680 (1934). Op. Atty. Gen. 1939, p. 62.

¹⁹⁷ State Bd. of Tax Comrs. v. Jackson, 283 U. S. 527, 75 L. Ed. 1248, 51 Sup. Ct. 540 (1931); Miles v. Department of Treasury, 209 Ind. 172, 199 N. E. 372 (1935); Davis v. Sexton, 210 Ind. 138, 200 N. E. 233 (1936).

¹⁹⁸ Department of Treasury v. Dietzen, 215 Ind. 528, 21 N. E. (2d) 137 (1939).

In each township having a population not exceeding 5,000 (all townships except Center), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.¹⁹⁹

A poll tax is assessed on every male inhabitant of the State between the ages of 21 and 50 years, and every such person must be listed for his poll tax in the township, town, or city of his residence.²⁰⁰ Poll tax exemptions are allowed to volunteer firemen²⁰¹ and former soldiers and sailors receiving service-connected disability compensation.²⁰² Before 1919 the board of commissioners could grant poll tax exemptions because of inability to pay.²⁰³ The auditor certifies to the city officials the number of taxable polls therein,²⁰⁴ and adds omitted polls to the tax duplicate.²⁰⁵ Poll taxes are collected by the county treasurer. A poll tax receipt must be presented to any licensing authority to obtain an occupation license required by State law, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.²⁰⁶

The property tax laws are administered by the township assessors, county assessor, auditor, treasurer, board of review, county council, and board of tax adjustment, under the supervision of the State Board of Tax Commissioners.²⁰⁷

¹⁹⁹ Acts 1933; Burns 64-1031; Baldwin 15664.

Vacancy caused by death of township assessor. Op. Atty. Gen. 1939, p. 243.

²⁰⁰ Acts 1919; Burns 64-102; Baldwin 15515.

²⁰¹ 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1941 suppl., 48-616; Baldwin, 1939 suppl., 12653-1.

²⁰² Acts 1923; Burns 45-1210; Baldwin 10917. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1941 suppl., 64-201, 64-220; Baldwin, 1937 suppl., 15518, 15515-1.

Before 1937 exemption was granted to all militiamen, soldiers, and sailors in active service. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-201; Baldwin 15518.

²⁰³ 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). Op. Atty. Gen. 1936, p. 83.

²⁰⁴ Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

²⁰⁵ Acts 1919; Burns 64-2102; Baldwin 15503.

²⁰⁶ Acts 1931; Burns 42-103, 42-105; Baldwin 10500, 10503. Acts 1931, 1941, Burns, 1941 suppl., 42-102, 42-104; Baldwin, 1941 suppl., 10499, 10501.

²⁰⁷ Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 18, 1939, by W. Davis Hamilton. See the authorities cited hereinafter under specific text statements.

The State Board of Tax Commissioners prescribes rules and forms for the subordinate tax officials and instructs them concerning their duties.²⁰⁸ It makes original assessments of certain classes of property of railroads, telephone companies, and other public utilities,²⁰⁹ and supervises and reviews assessments, appropriations, and levies of the subordinate tax officials.²¹⁰

The principal steps in property taxation, stated in their chronological order, are assessment, budget, levy, and collection. The assessment is the determination of what property is taxable and the value thereof. The budget is the appropriation of money for expenditures for the next calendar year. The levy is the charging of a certain amount of taxes against each \$100 of assessed valuation to raise the money required for the budget. The collection involves the voluntary payment and also proceedings to compel payment.²¹¹

Assessment of real and personal property for county purposes also serves as the assessment for State, township, city, and town purposes.²¹² Personal property is assessed

²⁰⁸ Acts 1919, 1921; Burns 64-1309, 64-2803, 64-2806; Baldwin 15713, 15866, 15869. *Thirty-ninth Annual Conference of State Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139.

²⁰⁹ The State Board of Tax Commissioners assesses property of the following companies: Railroad, telephone, express, telegraph, sleeping car, pipe line, car equipment (tank, refrigerator, freight), and "public utility" (heat, light, water, power, elevator, and warehouse service).

In case of railroads, the State Board assesses the railroad track and the rolling stock. Local authorities assess personal property that has a fixed location and also real estate outside of the property dominated "railroad track."

The State Board assesses the personal and intangible properties of the other specified companies. Their other property is assessed by local authorities.

Car equipment companies pay a tax of 2 percent on their assessed value direct to the State Department of Treasury.

Except as to the car equipment companies, the assessment of the State Board is certified to the county auditor who apportions it among the several townships, towns, and cities entitled to a levy thereon, and places such assessments on the tax duplicate; and thereafter the tax is collected by the county treasurer. Acts 1919, 1921, 1923, 1932 (Spec. Sess.); Burns 64-703 to 64-740; Baldwin 15617 to 15654. *Thirty-ninth Annual Conference of State Tax Board*, pp. 14-21.

²¹⁰ Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1925, 1927, 1931; Burns 64-1301 to 64-1338; Baldwin 15705 to 15737, 12490 to 12492, 12522, 12527. Acts 1935; Burns, 1941 suppl., 64-1313, 64-1321, 64-1324, 64-1325, 64-1331; Baldwin, 1935 suppl., 15717, 15725, 15728, 15729, 15735.

²¹¹ Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 18, 1939, by W. Davis Hamilton.

²¹² Acts 1919; Burns 64-2814; Baldwin 15877.

each year as of the first day of March.²¹³ Though real estate is not reassessed every year (the old assessment remaining in effect until changed), the lien for taxes thereon dates from March 1.²¹⁴ All taxable property, real and personal, is required to be assessed at the true cash value thereof.²¹⁵ Since personal property and real property are assessed differently, they will be discussed separately, beginning with personal property.

Personal property must be listed for taxation between March 1 and May 15 each year, with reference to the quantity and quality owned on March 1.²¹⁶ Each township assessor calls on the taxpayers and furnishes them with blanks for listing personal property. The taxpayer must list, under oath, all personal property held, possessed, or controlled by him, and state what he deems the true cash value of each item. Ordinarily the valuation of the taxpayer is accepted if it is in reason, but the assessor may fix a different valuation. If no list is given by the taxpayer or if the assessor doubts the correctness of the list, he may examine, under oath, the taxpayer and other persons concerning such property, and set down and assess to such person such amount of personal property as he may deem just.²¹⁷ If the taxpayer refuses to make a return or oath required by law, the assessor makes a note of such refusal, and the auditor adds 50 percent to the valuation returned by the assessor.²¹⁸

After giving notice to the taxpayer, omitted personal property may be assessed by the township assessor,²¹⁹ county assessor,²²⁰ auditor,²²¹ or board of review;²²² and appeal from such assessment may be taken to the circuit court, on the question of whether such omitted property is taxable.²²³

²¹³ Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

²¹⁴ Acts 1919, 1920 (Spec. Sess.); Burns 64-2825; Baldwin 15886.

²¹⁵ Acts 1919; Burns 64-103, 64-1009; Baldwin 15516, 15675. Acts 1937; Burns, 1941 suppl., 64-1019b; Baldwin, 1937 suppl., 15685-2. *Thirty-ninth Annual Conference of State Tax Board*, pp. 54-85.

²¹⁶ Acts 1919; Burns 64-401; Baldwin 15524.

²¹⁷ Acts 1919; Burns 64-601 to 64-604, 64-610; Baldwin 15569 to 15572, 15578. *Thirty-ninth Annual Conference of State Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139.

²¹⁸ Acts 1919; Burns 64-610; Baldwin 15578.

²¹⁹ Acts 1919; Burns 64-1025; Baldwin 15692.

²²⁰ Acts 1919; Burns 64-1102; Baldwin 15698.

²²¹ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²²² Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²²³ Acts 1919, 1927; Burns 64-2103; Baldwin 15804. Information obtained from Philip

The county assessor advises and instructs all township assessors in the county; and for this purpose visits each township assessor during March and April each year. The county assessor endeavors to cause uniformity and equality of assessment by the several township assessors. The county assessor and the township assessors may be removed by the State Board of Tax Commissioners for incompetency or neglect of duty.²²⁴

The board of review, after giving 2 weeks' notice meets on the first Monday in June each year. The board reviews the assessment of personal property, hears complaints of owners, reduces or increases valuations, equalizes valuations, corrects and completes the tax lists, and assesses omitted property. Notice must be given by the auditor to the owner before the board of review assesses omitted property or raises valuations.²²⁵ Any person dissatisfied with the decision of the board of review may appeal to the State Board of Tax Commissioners. Hearings on such appeals are, when possible, held in the auditor's office in the county from which the appeal was taken. The amount fixed by the State Board is the final assessment of such property.²²⁶

The county auditor, on or before March 1 each year, makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation.²²⁷

The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels of real estate therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.²²⁸ For taxation purposes, the auditor keeps a transfer book, arranged by

Zoercher, chairman of the State Board of Tax Commissioners, on May 18, 1939, by W. Davis Hamilton.

²²⁴ Acts 1919, 1921; Burns 64-1001, 64-1102; Baldwin 15666, 15698.

Death of township assessor. Op. Atty. Gen. 1939, p. 243.

²²⁵ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²²⁶ Acts 1919, 1935; Burns, 1941 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State Board of Tax Commissioners, *Tax Rule 6*.

²²⁷ Acts 1919, 1937; Burns, 1941 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

²²⁸ *Ibid.*

townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees.²²⁹ On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.²³⁰

Each township assessor is required to call on every person residing in his township for a list of lands owned by such person in such township subject to taxation. The improvements on such lands should be described, and any change of improvements since March 1 of the previous year should be stated. If such person fails to furnish such list within 5 days after being called on, as notified to do, the assessor may make the list according to the best information he can obtain, and the auditor must add 25 percent to the assessor's valuation of such person's lands or improvements which were not assessed for taxation the previous year. On or before the first Monday in June in each year, the assessor must make out and deliver to the auditor, in a book furnished by him, a return of all real estate so listed.²³¹

Reassessment of lots, lands, or improvements can be made only when authorized by the State Board of Tax Commissioners. If improvements are destroyed or removed, or if the value of improvements is reduced by substantial changes, the taxpayer should apply to the State Board for an order for reassessment, since the local officials cannot remove improvements from the tax lists and books or reduce the assessment of improvements without such order for reassessment. The assessments mentioned in the next paragraph below may be made without an order from the State Board. The last general reassessment of real estate in Indiana was made in 1932.²³²

Each person authorized to make assessment valuations of real estate for taxation is charged with the duty of correcting tax book errors as to description of property and name of

²²⁹ Acts 1919; Burns 64-1409; Baldwin 15746.

²³⁰ Acts 1921; Burns 64-519; Baldwin 14777.

²³¹ Acts 1919; Burns 64-1008, 64-1009, 64-1013, 64-1015, 64-1016; Baldwin 15674, 15675, 15679, 15681, 15682. *Thirty-ninth Annual Conference of State Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139. See the following footnote.

²³² Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1012; Baldwin, 1937 suppl., 15685. *Thirty-ninth Annual Conference of State Tax Board*, pp. 54-85. Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on March 29, 1940, by W. Davis Hamilton.

owner. A notation is made showing any change of ownership since the last assessment. Each township assessor, after giving notice to the occupant of the property or the resident of the county claiming ownership, each year assessed any lots, lands, or improvements found omitted, and makes a return thereof to the auditor as of the year when the same should have been first assessed.²³³ The county assessor,²³⁴ auditor,²³⁵ and board of review²³⁶ also have power to assess such omitted property after giving notice. The auditor makes assessment of any newly platted additions to any city or town.²³⁷ Such assessments by the township assessors, county assessor, and auditor may be reviewed and revised at the next meeting of the board of review.²³⁸ The decisions of the board of review in reviewing such assessments or in making original assessments of omitted lots, lands, or improvements may be reviewed by the State Board of Tax Commissioners in the manner provided for review of decisions concerning personal property, discussed above.²³⁹ From any assessment of omitted lots, lands, or improvements, appeal may be taken to the circuit court on the question of such property's taxability.²⁴⁰

In case of flood, fire, or other disaster in which a substantial amount of property in any township has been partially or totally destroyed, the State Board of Tax Commissioners must order a survey, determine the locality in which the property has been partially or totally destroyed, and order reassessment of all or part of the property in such township.²⁴¹

²³³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15665. Acts 1919; Burns 64-1025; Baldwin 15692.

²³⁴ Acts 1919; Burns 64-1102; Baldwin 15693.

²³⁵ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²³⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²³⁷ Acts 1919; Burns 64-1027; Baldwin 15691.

²³⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

²³⁹ Acts 1919, 1935; Burns, 1941 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State Board of Tax Commissioners, *Tax Rule 6*.

²⁴⁰ Acts 1919, 1927; Burns 64-2103; Baldwin 15804. Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 18, 1939, by W. Davis Hamilton.

²⁴¹ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(c); Baldwin, 1937 suppl., 15685(c).

The State Board, after March 31 of a year in which a general election is not held, may, without petition of taxpayers, order a hearing on the necessity of reassessment for the whole State or any of the counties or townships thereof. A hearing is held, after notice thereof, in each county in which the affected property is located. The board may then order reassessment.²⁴²

Any person may, before March 31 in any year, file with the State Board of Tax Commissioners a petition for reassessment of his real estate. At the hearing, the petitioner must show cause for reassessment. Other taxpayers may be heard in opposition. The board may then order the requested reassessment. This is the only method for obtaining reassessment of particular real estate.²⁴³

A petition for reassessment of all real estate in a township, signed by the necessary percentage—it varies in different townships—of the resident owners of taxable real estate of such township and bearing a certificate of the auditor as to the required number of signers, may be filed with the State Board of Tax Commissioners before March 31, in any year in which there is no general election of State, county, or township officials. If it appears to the board that the petition is in proper order and that the present valuation is inequitable, the board will order reassessment of all or part of the real estate in the township.²⁴⁴

Within 10 days after the valuation of real or personal property is determined by the board of review or State Board of Tax Commissioners, the owner may appeal to the circuit court on questions of law concerning such valuation.²⁴⁵

There are a great many statutory provisions concerning exemptions from property taxes, and space will permit only a brief discussion thereof. The following property is exempt from property taxes: Property of the United States and the State of Indiana; property of any county, city, town, or township; lands granted for the use of the common schools; real and personal property (including dormitories) actually

²⁴² Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(b); Baldwin, 1937 suppl., 15685(b).

²⁴³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(d); Baldwin, 1937 suppl., 15685(d).

²⁴⁴ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

²⁴⁵ Acts 1927; Burns 64-1020; Baldwin 15686.

used by schools and colleges; property used (or devised to be used) exclusively for educational, literary, scientific, religious, or charitable purposes; property of agricultural associations, cemetery associations, and soldiers and sailors' memorial associations; property of the American Legion, Young Men's Christian Association, Knights of Columbus, and similar associations; property of fraternal beneficiary associations, college fraternities, and college sororities; historical sites maintained for nonprofit public exhibition; property used exclusively for the purpose of a public library; property owned and used exclusively by the Indiana National Guard or other military organization for armory purposes; bonds and notes issued by any municipality or taxing district of the State for certain purposes; and certain annuities payable by religious or charitable organizations.²⁴⁶ Sworn statements must be filed with the auditor on or before the first day of March each year to obtain exemptions of property other than the following: Property owned by the State of Indiana, the United States, municipal corporations, and political subdivisions of the State; and property owned and used by churches, State-accredited schools, State-accredited charitable institutions, hospitals, and college fraternities and sororities.²⁴⁷

Any Indiana resident owning real estate encumbered by a mortgage may have the amount of the mortgage existing and unpaid on the first day of March, not exceeding \$1,000 and not exceeding one-half of the assessed valuation, deducted from the assessed valuation for that year, by filing with the auditor between the first day of March and the first Monday in May a sworn statement in the form required by law.²⁴⁸

²⁴⁶ Acts 1941, ch. 95, sec. 1. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1941 suppl., 64-201; Baldwin, 1937 suppl., 15518.

Property of cities and towns. Acts 1939; Burns, 1941 suppl., 64-221; Baldwin, 1939 suppl., 15518-5. Op. Atty. Gen. 1939, p. 62.

Municipally owned utility is taxable to the extent it is used in a proprietary capacity. *Borgman v. Fort Wayne*, 215 Ind. 201, 18 N. E. (2d) 762 (1939).

Farms operated by colleges and hospitals. Op. Atty. Gen. 1939, p. 146. *Bridge across Ohio River*. *Ibid.*, p. 294.

Disabled soldiers, sailors, marines, and nurses, and the widows of such soldiers, sailors, or marines. Acts 1927; Burns 64-205 to 64-207; Baldwin 10986 to 10988. Acts 1941; Burns, 1941 suppl., 64-223, 64-224; Baldwin, 1941 suppl., 15521-1, 15521-2.

²⁴⁷ Acts 1937; Burns, 1941 suppl., 64-213, 64-215; Baldwin, 1937 suppl., 15518-2, 15518-4.

²⁴⁸ Acts 1919, 1939; Burns, 1941 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. Op. Atty. Gen. 1939, p. 123. *Thirty-eighth Annual Conference of State Tax Board*, pp. 64-74.

The county auditor, not later than September 1 each year, apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.²⁴⁹

The county council, at its annual meeting in August, adopts a budget, establishes the tax rate, and makes tax levies for the succeeding calendar year. The auditor then schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the State Board of Tax Commissioners.²⁵⁰

Appeal from the action of the county council may be taken to the State Board of Tax Commissioners. That board, after hearing the objections, may affirm or decrease the total tax levy on any item thereof. The decision of the board, which is final and conclusive "with respect to said levies and such parts thereof as may have been in question," is certified to the auditor, and the auditor certifies it to the taxing units interested therein. When the State Board orders a reduction in the levy, it indicates the items in the budget affected by such reduction; and this limits the expenditures for the year, except in cases of extraordinary emergency.²⁵¹

The laws discussed in the next four paragraphs do not apply to levies and rates to meet the following liabilities: (a) Funding, refunding, or judgment funding obligations; (b) "outstanding obligations"; (c) judgments; (d) obligations issued to meet emergency growing out of flood, fire, pestilence, war, or other major disaster; (e) obligations issued on petition under this act; or, (f) requirements of the county welfare fund for public welfare services. It is the duty of the county council to levy an amount sufficient to meet such purposes, regardless of any statutory provisions to the contrary.²⁵²

Under the 1919 act the owner was not required to be a resident of Indiana in order to obtain a mortgage exemption. Acts 1919; Burns 64-209; Baldwin 15565.

²⁴⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

²⁵⁰ Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15736-1.

²⁵¹ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

²⁵² Acts 1937; Burns, 1941 suppl., 64-312, 64-313; Baldwin, 1937 suppl., 15857, 6, 15857-7.

Except on authorization of the State Board of Tax Commissioners, the total tax rate for all purposes other than those stated in the preceding paragraph cannot exceed \$1.25 on each \$100 of taxable property outside incorporated cities and towns or \$2 on each \$100 of taxable property inside incorporated cities and towns.²⁵³

At least 2 days before the second Monday in September, each municipal corporation²⁵⁴ of the county files with the county auditor a statement of the tax levies and rates for the ensuing year, fixed by such municipal corporation, and at least two copies of the budgets on which such levies are based.²⁵⁵ The board of tax adjustment meets on the second Monday of September each year. At that meeting the auditor lays before the board these budgets, tax levies, and rates.²⁵⁶ It is the duty of the board of tax adjustment to examine, revise, change, or reduce (but not increase) any budget, tax levy, or rate, and to hold such budget within the total amount of revenue to be raised therefor from any source whatever. Any changes in budgets must be with respect to the total amounts budgeted for each office, and not the detailed items included in such budgeted classifications. While the board of tax adjustment endeavors to keep the rates within the limits above stated, if it decides that such rates are inadequate, it certifies to the State Board of Tax Commissioners its analysis and recommendations together with such data and facts as may be deemed essential to review. The State Board (proceeding according to the provisions governing appeals) then reviews the budgets and may authorize rates beyond the said limits.²⁵⁷

If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the levies and rates to the statutory limits aforesaid (\$2 per \$100 in cities and towns and \$1.25 per \$100 in other places), then the auditor calculates and fixes the rates, so that the total tax rate on property within any municipal corporation does not exceed said limits, and certifies his action to each

²⁵³ Acts 1937; Burns, 1941 suppl., 64-309; Baldwin, 1937 suppl., 15897-3.

²⁵⁴ The term "municipal corporation" includes counties, townships, cities, towns, school districts, sanitary districts, park districts, and all taxing units within the State. Acts 1937; Burns, 1941 suppl., 64-308; Baldwin, 1937 suppl., 15897-2.

²⁵⁵ Acts 1937; Burns, 1941 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

²⁵⁶ Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

²⁵⁷ Acts 1937; Burns, 1941 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

municipal corporation before October 6. Appeal to the State Board of Tax Commissioners may be taken before October 16 by the municipal corporation or by 10 or more taxpayers. On the hearing of such appeals, the State Board "may revise, change, or increase" the levy and rate in respect to total amounts budgeted by each office or department, but not as to detailed items. The levy and rate must be kept within the limit originally fixed by the municipal corporation. The State Board certifies its decision to the county auditor before December 1, if possible. The budget, levy, and rate thereby fixed are final.²⁵⁸

After the budget, levy, and rate for each municipal corporation have been finally fixed and determined, as aforesaid, the appropriating body of each municipal corporation allocates the funds to be derived from such levy in such manner that the expenditures for the ensuing year will remain within the limitations as finally fixed in the manner stated in the two preceding paragraphs.²⁵⁹

If the county council determines that an emergency exists requiring expenditures for the current year not authorized by the budget as originally established, or as modified by the State Board of Tax Commissioners, the council may make an additional appropriation and levy. The auditor then certifies the matter to the State Board, and its decision thereon is final and conclusive.²⁶⁰

Between the first Monday in July and the last day of December, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the "tax duplicate." This contains several columns, and shows the names of taxpayers in alphabetical order, lands and improvements, mortgage deductions, corporate stock, personal property, valuations, poll taxes, assessments of omitted property, land transfers since the last assessment, and all alterations in the assessment lists made by the board of review or the State Board of Tax Commissioners. He numbers each original township, city, and town in regular progression, as the same shall stand entered on the duplicate, retaining the same number from year to year. On or before January 1 he delivers

²⁵⁸ Acts 1937; Burns, 1941 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

²⁵⁹ Acts 1937; Burns, 1941 suppl., 64-315; Baldwin, 1937 suppl., 15897-9.

²⁶⁰ Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5585.

to the Auditor of State a complete abstract of all property listed in each township, city, and town, showing valuations, mortgage deductions, number of polls, the amount of each kind of tax, the aggregate thereof in the county, and the rate of each kind assessed. A copy of the abstract is delivered to the treasurer, and another copy is kept by the county auditor.²⁶¹

Property taxes for State, county, township, city, and town purposes are payable to the county treasurer in two equal instalments on or before the first Monday in May and the first Monday in November, respectively, in the year following the year for which the property was assessed. If any instalment is not paid when it becomes due, such instalment becomes delinquent, and a penalty of 8 percent of such instalment is added. An additional penalty of 5 percent is added to any tax for each year the tax remains unpaid after the first Monday in November of the year in which the delinquency accrued.²⁶²

A personal property tax receipt must be presented to any licensing authority to obtain an occupation license required by the State, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.²⁶³

It is the duty of the county treasurer to collect all such property taxes after they become delinquent. He may levy on personal property at any time after the tax becomes delinquent, or before delinquency if he has good reason to believe the taxpayer is about to leave the county without payment, and sell the same after 10 days' notice of the time and place of sale. Suit in the name of the treasurer may be brought by the prosecuting attorney to collect taxes. Real estate may be sold at a tax sale, on the second Monday in April, after advertisement, but not until 15 months have elapsed since delinquency. The purchaser of real estate at a tax sale receives from the auditor a tax certificate which describes the realty, states the amount paid by the purchaser,

²⁶¹ Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

²⁶² Acts 1919; Burns 64-1502; Baldwin 15748. Acts 1932 (Spec. Sess.); Burns 64-1508; Baldwin 15751. Acts 1935; Burns, 1941 suppl., 64-1542, 64-1544; Baldwin, 1935 suppl., 15765-1, 15765-3.

²⁶³ Acts 1931; Burns 42-103, 42-105; Baldwin 10500, 10503. Acts 1931, 1941; Burns, 1941 suppl., 42-102, 42-105; Baldwin, 1941 suppl., 10499, 10501.

and states when a tax deed (to be executed by the auditor) may be obtained by the holder of the certificate.²⁶⁴

The owner or occupant of any land sold for taxes, or any other person having an interest therein, may redeem the same at any time within 2 years after the sale and at any time thereafter before a tax deed is issued. Such deed may be issued by the auditor at any time between 2 and 4 years after the tax sale. The redeemer must pay to the treasurer the amount of the taxes and penalties for which the property was sold (as shown in the tax certificate), plus a penalty based on a percentage of such amount (10 percent if redeemed within 6 months after the sale, 15 percent if redeemed 6 months to 1 year after the sale, or 25 percent if redeemed more than 1 year after the sale), plus the cost of the tax sale, plus any subsequent taxes paid by the certificate holder, plus interest on such subsequent taxes at the rate of 6 percent per annum. No interest on such subsequent taxes can accrue later than 2½ years after the tax sale. The money so received by the treasurer is paid by him to the holder of the redeemed tax certificate.²⁶⁵

Ordinarily real estate cannot be sold at a tax sale for less than the amount of the taxes under which the sale is made, plus penalties, and the pro rata share of costs of sale, and such sale is made subject to all other taxes. Where real estate has been twice offered for sale at separate public tax

²⁶⁴ Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1518, 64-1701 to 64-1705, 64-2001, 64-2201, 64-2203 to 64-2211; Baldwin 15772, 15578 to 15782, 15794, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1941 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Op. Atty. Gen. 1940, p. 40.

If a delinquent taxpayer has in the county personalty which is liable to pay his taxes, he may enjoin the sale of his realty for such delinquent taxes until such personalty is exhausted. *Bland v. Union Cent. Life Ins. Co.*, 209 Ind. 84, 198 N. E. 78 (1935); *Weaver v. Kauffman*, 57 Ind. App. 59, 106 N. E. 398 (1914).

"Taxes are not a lien upon personal property. They are the personal obligation of the taxpayer, and become a lien only when the property is levied upon. The lien created by the levy is like the lien created by a levy upon execution. It is junior and inferior to prior existing liens." Held that a purchaser of personalty at a tax sale took title subject to a chattel mortgage recorded before the seizure to satisfy the tax. *Voigt v. Ludlow Typograph Co.*, 213 Ind. 329, 12 N. E. (2d) 499 (1938).

²⁶⁵ Acts 1919, 1931; Burns 64-2301, 64-2401, 64-2403; Baldwin 15819, 15832, 15811. Information obtained from E. P. Brennan, State Examiner, on January 22, 1940, by W. Davis Hamilton.

Infants, idiots, and insane persons may redeem their lands within 2 years after expiration of disability. Acts 1919; Burns 61-2302; Baldwin 15820.

sales and no sufficient bid as aforesaid has been made previous to the first Monday of the following December, the property must be bid in by the county auditor for a sum equal to the delinquent taxes and the costs thereon. The county immediately receives a deed therefor, but the original owner may redeem the property within one year after the date of sale.²⁶⁶

Semiannually lists of delinquent taxes due from officials and employees of local governmental units are submitted by the county treasurer to each disbursing officer of such units, who deducts 10 per cent of said delinquents' salaries in excess of \$15 per week for payment to the county treasurer until such taxes are paid in full.²⁶⁷

EXCISE TAXES AND LICENSING

The tax on financial institutions is an excise tax²⁶⁸ (in lieu of all other taxes) on banks, trust companies, and building and loan associations. It is administered by the county auditor and treasurer under the supervision of the State Board of Tax Commissioners.²⁶⁹

The inheritance tax is an excise tax administered by the county assessor and treasurer, under the supervision of the State Board of Tax Commissioners, and by the circuit court. A schedule must be filed with the court within 12 months after the decedent's death. Notice is given to the interested parties, the estate is appraised, and the court determines the amount of tax due. The court appoints the county assessor to act as the appraiser in every estate; and he appraises all property at the fair market value, as of the date of the transfer.²⁷⁰ The appraiser makes his report in duplicate, one copy to the court and one to the State Board of Tax Commissioners.²⁷¹ The treasurer collects the

²⁶⁶ Acts 1919, ch. 59, secs. 222, 257. Acts 1932 (Spec. Sess.); Burns 64-1509; Baldwin 15752. Acts 1919, 1931, 1937, 1941; Burns, 1941 suppl., 64-2202, 64-2203, 64-2205; Baldwin, 1937 suppl., 15807; Baldwin, 1941 suppl., 15808, 15810. Op. Atty. Gen. 1938, p. 255; 1939, p. 211; 1940, p. 40.

²⁶⁷ Acts 1935, 1941; Burns, 1941 suppl., 64-1505, 64-1506; Baldwin, 1941 suppl., 15767, 15768.

²⁶⁸ Lutz v. Arnold, 208 Ind. 480, 193 N. E. 840 (1935).

²⁶⁹ Acts 1933; Burns 64-801 to 64-834; Baldwin 15582 to 15615. Op. Atty. Gen. 1939, p. 252; 1940, p. 59.

²⁷⁰ Acts 1931, 1933; Burns 6-2408; Baldwin 15946. Acts 1931, 1933, 1937; Burns, 1941 suppl., 6-2407; Baldwin, 1937 suppl., 15945. Op. Atty. Gen. 1939, p. 326. *Thirty-ninth Annual Conference of State Tax Board*, pp. 32-39.

²⁷¹ Acts 1931; Burns 6-2410; Baldwin 15948.

tax and issues a receipt in duplicate, one copy of which is sent to the State Board; and no final accounting of an estate is made until such receipt is countersigned by that board.²⁷² The county treasurer must report quarterly to the Auditor of State all inheritance taxes received by him. All such collected taxes are transmitted by the county treasurer, through a warrant issued by the county auditor, to the Treasurer of State.²⁷³ When directed by the court to do so, the prosecuting attorney sues to collect the tax.²⁷⁴

The intangible tax²⁷⁵ is a stamp tax on notes, stocks, bonds, and other evidences of property interests or obligations for payment of money. This tax is administered by the county assessor²⁷⁶ and treasurer, under the supervision of the State Board of Tax Commissioners. Stamps are issued by the State Board and sold by the county treasurer.²⁷⁷ The taxpayer is required to file with his tangible personal property schedule an affidavit showing that he has complied with the intangible tax law.²⁷⁸ If the tax is not paid when due, it is entered on the tax duplicate of the county where the taxpayer resides or his property is located in the manner in which omitted property is assessed for property taxes, and becomes a lien upon all property of the taxpayer in the county.²⁷⁹ Suit for collection may be brought by the prosecuting attorney or the the Attorney General.²⁸⁰

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes each

²⁷² Acts 1931; Burns 6-2413; Baldwin 15951.

²⁷³ Acts 1931; Burns 6-2414; Baldwin 15952.

Refunds of inheritance taxes. Op. Atty. Gen. 1939, p. 88.

²⁷⁴ Acts 1931; Burns 6-2415; Baldwin 15955.

²⁷⁵ The intangible tax is an excise tax. *Lutz v. Arnold*, 208 Ind. 480, 193 N. E. 840 (1935).

²⁷⁶ Acts 1933; Burns 64-917; Baldwin 15915. Acts 1933, 1935; Burns, 1941 suppl., 64-906; Baldwin, 1935 suppl., 15904. *Thirty-ninth Annual Conference of State Tax Board*, pp. 39-53. Op. Atty. Gen. 1940, pp. 110, 151, 203.

Mortgage which does not create a personal liability is subject to intangible tax. Op. Atty. Gen. 1939, p. 222.

²⁷⁷ Acts 1933; Burns 64-924, 64-927; Baldwin 15922, 15925.

²⁷⁸ Acts 1933; Burns 64-918; Baldwin 15916.

²⁷⁹ Acts 1933, 1935; Burns, 1941 suppl., 64-915; Baldwin, 1935 suppl., 15913.

Actions on documents on which tax has not been paid. *First State Bank v. Montoney*, 106 Ind. App. 61, 17 N. E. (2d) 870 (1938); *Davia v. Bankers Trust Co.*, 106 Ind. App. 422, 20 N. E. (2d) 686 (1939).

²⁸⁰ Acts 1933; Burns 64-921; Baldwin 15919.

township assessor makes inquiry concerning dogs and kennels, collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The county auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.²⁸¹ The money so collected constitutes a fund known as the "dog fund," and is used to pay for damage to or loss of livestock caused by dogs or rabies. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the first Monday in March are transferred on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.²⁸²

The clerk of the circuit court issues licenses for marriages,²⁸³ physicians, surgeons,²⁸⁴ midwives,²⁸⁵ osteopaths,²⁸⁶ chiropractors, drugless healers,²⁸⁷ dentists,²⁸⁸ optometrists,²⁸⁹ nurses,²⁹⁰ hunting, trapping, fishing,²⁹¹

²⁸¹ Acts 1937; Burns, 1941 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

²⁸² Acts 1937, 1941; Burns, 1941 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8, 3811-10; Baldwin, 1941 suppl., 3811-9.

Dog tax is for protection of property, not to provide revenue for public purposes. Excess funds in the county must be paid to the Auditor of State in accordance with the 1937 law, not to schools under the 1929 law. *Finerty v. State ex rel. School City of Gary*, 213 Ind. 470, 12 N. E. (2d) 941 (1938).

²⁸³ Rev. Stat. 1833, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852, Acts 1939; Burns, 1941 suppl., 44-201; Baldwin, 1939 suppl., 5622.

The judge of the circuit court may waive certain provisions of the law requiring laboratory tests and medical certificates. Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Injunction to prevent illegal issuance of license. *Sweigart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

Common law marriage. *Young v. General Baking Co.*, 104 Ind. App. 658, 12 N. E. (2d) 1016 (1938).

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington*, 213 Ind. 347, 12 N. E. (2d) 758 (1938).

²⁸⁴ Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

²⁸⁵ Acts 1897; Burns 63-1309; Baldwin 10709.

²⁸⁶ Acts 1901; Burns 63-1316; Baldwin 10716.

²⁸⁷ Acts 1927; Burns 63-1312; Baldwin 10713.

²⁸⁸ Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1941 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

²⁸⁹ Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1941 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

²⁹⁰ Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

²⁹¹ Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2.

poultry dealers,²⁹² and junk dealers.²⁹⁸ Formerly he issued liquor licenses,²⁹⁴ brokers' licenses,²⁹⁵ licenses for veterinarians,²⁹⁶ stallions,²⁹⁷ and petty money lenders,²⁹⁸ and kept a register of certificates of agents of foreign insurance companies.²⁹⁹

The judges of the circuit court have authority to issue licenses to carry pistols. When the judge grants an application for such license, he usually orders the clerk of the circuit court to issue the license; and in issuing such licenses the clerk acts for the judge.³⁰⁰ The sheriff issues licenses for the retail sale of pistols.³⁰¹

The county auditor issues licenses for peddlers, shows, theaters,³⁰² transient merchants,³⁰³ public warehouses,³⁰⁴

Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1941 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

²⁹² Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

²⁹³ Acts 1905; Burns 42-703; Baldwin 10462.

²⁹⁴ This duty existed from the organization of the county until 1841 and from 1917 to 1933. Acts 1816-17, ch. 15, sec. 6. Acts 1817-18 (general), ch. 47, secs. 1, 2. Acts 1820-21, ch. 36, secs. 1, 2. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. L. 1831, ch. 20, sec. 6. Rev. Stat. 1838, ch. 21, sec. 6; ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Acts 1917, ch. 4, secs. 6, 7, 12. Acts 1925, ch. 48, secs. 10, 11. Acts 1933, ch. 79, sec. 1.

²⁹⁵ Acts 1840-41 (general), ch. 5, sec. 18.

²⁹⁶ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

²⁹⁷ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

²⁹⁸ Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

²⁹⁹ Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

³⁰⁰ Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21). Acts 1935, 1937; Burns, 1941 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5. Op. Atty. Gen. 1937, p. 242.

³⁰¹ Acts 1935, 1937; Burns, 1941 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the Superintendent of the State Police. *Ibid.*

³⁰² Acts 1917, 1937; Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443. 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1901; Burns 42-502, 42-503; Baldwin 10470-1, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

³⁰³ Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

³⁰⁴ Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

and ferries.³⁰⁵ He issued liquor licenses before 1917.³⁰⁶ The board of commissioners authorizes the issuance of ferry licenses,³⁰⁷ and before 1917 authorized the issuance of liquor licenses.³⁰⁸

FEEES

The laws provide for the charging of fees by various county officials. Salaried officials cannot disburse their fees for office expense, or retain the fees or interest thereon as compensation, unless a statute enacted since 1932 specifically authorizes them to do so. Such fees must be paid into the county treasury. An officer cannot draw any salary while illegally withholding fees.³⁰⁹

County officials may charge and collect only such fees

³⁰⁵ Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 17, secs. 1-23. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 52-6, 52-38, 5418. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443.

³⁰⁶ Rev. Stat. 1838, ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 8, sec. 3; ch. 20, secs. 7, 14; ch. 92, sec. 1. Acts 1853, ch. 66, secs. 1-4. Acts 1855, ch. 105, secs. 4-8; ch. 106, secs. 1, 2. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

³⁰⁷ Acts 1807, ch. 33 (misnumbered 31), secs. 1, 6; ch. 51, sec. 14. Acts 1816-17, ch. 29, sec. 2. Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Rev. Stat. 1843, ch. 17, secs. 1-23. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443.

³⁰⁸ Acts 1807, ch. 17, secs. 1, 4. Acts 1813, ch. 3, sec. 2. Acts 1817-18 (general), ch. 47, secs. 1, 2. Rev. Stat. 1838, ch. 105, secs. 1-10. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92, sec. 1. Acts 1853, ch. 66, sec. 8. Acts 1855, ch. 105, secs. 4-8; ch. 106, sec. 4. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

³⁰⁹ Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1895; Burns 49-1410; Baldwin 7585. Keifer v. Summers, 137 Ind. 106, 35 N. E. 1103 (1894); Applegate v. State ex rel. Pettijohn, 205 Ind. 122, 185 N. E. 911 (1933); Board of County Comrs. v. Lewis, 81 Ind. App. 601, 144 N. E. 623 (1924).

as are allowed by statute.³¹⁰ If an officer collects illegal fees, the county cannot recover them from him, since they belong to the person paying the same.³¹¹ If the officer unlawfully refuses to pay over fees collected by him, an action lies on his bond;³¹² and if he pays over fees which he is entitled to retain, he may sue to recover the same.³¹³

All officers are required to keep complete records of all fees received from any source whatever. Such records are subject to public inspection at any time, and must be examined by the board of commissioners at their meetings.³¹⁴

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.³¹⁵ The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years. The auditor enters such lists in the order book (commonly called the "Commissioners' Record") of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the county treasurer.³¹⁶

FUNDS RECEIVED FROM THE STATE

The 92 counties in Indiana quarterly receive \$3,050,000 (if available) from the State motor vehicle highway account (composed of excise taxes on motor vehicle fuel, motor vehicles, operators, and chauffeurs), distributed among the counties on the following basis: 5 percent divided equally; 52½

³¹⁰ Noble v. Board of County Comrs., 101 Ind. 127 (1885); Legler v. Paine, 147 Ind. 181, 45 N. E. 604 (1896).

³¹¹ State ex rel. Board of County Comrs. v. Williams, 39 Ind. App. 376, 77 N. E. 1137 (1906).

³¹² Acts 1883; Burns 49-142; Baldwin 13094. Workman v. State ex rel. Board of County Comrs., 165 Ind. 42, 73 N. E. 917 (1905).

³¹³ Board of County Comrs. v. Crone, 36 Ind. App. 283, 75 N. E. 826 (1905).

³¹⁴ Acts 1895; Burns 49-1401, 49-1409; Baldwin 7576, 7584. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Acts 1909; Burns 60-213; Baldwin 13864.

³¹⁵ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

³¹⁶ Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

percent divided according to the ratio of miles of county roads in the county to total mileage of county roads in the State; and 42½ percent divided according to the ratio of motor vehicle registrations in each county to the total motor vehicle registrations of the State. Such funds are used by the county for construction and maintenance of county roads and bridges thereon.⁸¹⁷

The counties receive from the State a portion of the license fee on liquor dealers. Distribution of such portion among the counties is based on the amount paid in for licenses with respect to dealers' premises located outside cities and towns in each county, as compared with the total for such areas in all counties.⁸¹⁸

Each county receives from the State (including Federal funds), as reimbursement, about 81 percent of the money spent by the county for welfare assistance.⁸¹⁹

The counties receive a portion of the intangible tax. Distribution of such portion among the counties is based on the assessed valuation of the real property in each county, as compared to the total in all counties. One-fourth of the amount received by the county goes into the general fund of the county; and the remainder goes to the school funds of the township, city, and town taxing units within the county, on a basis of valuation of the real property in each unit.⁸²⁰ School funds are discussed hereinafter under the heading "Education."

CLAIMS AND ALLOWANCES

Claims against the county, duly itemized and verified, in writing on forms furnished by the board of commissioners, may be filed with the auditor, who places them on the claim docket and thereafter presents them to the board for decision. At a regular or special session of the board of commissioners, beginning at least 5 days after the docketing of the claim and 3 days after publication of notice by the auditor, the commissioners must examine the merits of the claim and may, in their discretion, allow it, in whole or in part, as they

⁸¹⁷ Acts 1941; Burns, 1941 suppl., 36-2817; Baldwin, 1941 suppl., 8695-17.

⁸¹⁸ Acts 1935, 1937, 1939; Burns, 1941 suppl., 12-505, 12-811; Baldwin, 1939 suppl., 3764-7, 3764-40(f).

⁸¹⁹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1405, 52-1412; Baldwin, 1937 suppl., 14078-117, 14078-124. Information obtained from Frank G. Thompson, Auditor of State, on March 31, 1939, by W. Davis Hamilton.

⁸²⁰ Acts 1933; Burns 64-922; Baldwin 15920.

find it to be just and owing.³²¹ The board cannot allow a claim that it previously disallowed.³²²

A claim for services can exist only by contract or by a statute providing for the services and directing compensation.³²³ A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.³²⁴ A claim on a contract for work to be conducted under the supervision of the county surveyor, or any architect, engineer, superintendent, or inspector appointed by the board of commissioners, must be accompanied by a certificate of the surveyor or such agent, showing that the work therein mentioned was performed according to contract and that the amount claimed is due and owing by the terms of the contract.³²⁵ A claim based on a judgment or order of a court must be accompanied by a certified copy of such judgment or order.³²⁶

An allowance not called for within 5 years may be canceled.³²⁷ Preference in payment is given to claims for money advanced by any county officer for the use of the county pursuant to provisions of law or of any order of the board.³²⁸ However, no allowance can be made by the board of commissioners to one of its members for articles furnished by him to the county under a contract or otherwise.³²⁹

Any person feeling aggrieved by any decision of the board on any claim may appeal to the circuit court. In case of disallowance in whole or in part, the claimant may appeal as aforesaid or bring an independent suit against the board. The claimant must pay the costs of the appeal if he does not recover more on the appeal than was allowed by the board.³³⁰ No complaint other than the claim (including

³²¹ Acts 1899; Burns 26-538, 26-804; Baldwin 5403, 5255. Acts 1879 (Spec. Sess.); Burns 26-805, 26-807; Baldwin 5254, 5256. Acts 1897; Burns 26-806, 26-809; Baldwin 5260, 5257. Acts 1931; Burns 26-806 to 26-819; Baldwin 5268 to 5271.

³²² *Myers v. Gibson*, 152 Ind. 500, 53 N. E. 646 (1899).

³²³ *Board of County Comrs. v. Greensburg Times*, 215 Ind. 471, 19 N. E. (2d) 459, 20 N. E. (2d) 647 (1939).

³²⁴ Acts 1899; Burns 26-538; Baldwin 5403.

³²⁵ Acts 1899; Burns 26-539; Baldwin 5404.

³²⁶ Acts 1911; Burns 26-814; Baldwin 5265.

³²⁷ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

³²⁸ 1 Rev. Stat. 1852; Burns 26-802; Baldwin 5252.

³²⁹ *Waymire v. Powell*, 105 Ind. 328, 4 N. E. 886 (1886).

³³⁰ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

certificates and exhibits, if any) presented to the board is required on appeal.³³¹ If the board allows only a part of the claim, and the claimant accepts payment of the amount allowed, he cannot bring suit for the remainder.³³²

In pursuance of appropriations by the county council,³³³ the judge of the circuit court may make allowances against the county for expenses of administration of justice.³³⁴ Such allowances include compensation of witnesses,³³⁵ jurors,³³⁶ master commissioners,³³⁷ sheriff,³³⁸ bailiffs,³³⁹ court reporter,³⁴⁰ court page,³⁴¹ and attorneys appointed to represent poor persons.³⁴²

Within 10 days after adjournment of the session of the board of commissioners or circuit court, at which allowances against the county are made, the auditor publishes notice showing all allowances made by the board or court. A warrant on an allowance by a court cannot be issued until 3 days after such publication.³⁴³

The county director of public welfare may make allowances for welfare assistance; and the clerk of the circuit court makes allowances for clothing for insane paupers in institutions.³⁴⁴

CUSTODY AND DISBURSEMENT OF FUNDS

The treasurer receives all money coming to the county,

³³¹ Board of County Comrs. v. Wertz, 112 Ind. 268, 13 N. E. 874 (1887).

³³² Western Constr. Co. v. Board of County Comrs., 178 Ind. 684, 98 N. E. 347 (1912).

³³³ Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

³³⁴ Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

³³⁵ 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

³³⁶ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

³³⁷ Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

³³⁸ Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

³³⁹ Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. Op. Atty. Gen. 1939, p. 312.

³⁴⁰ Acts 1921, 1939; Burns, 1941 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

³⁴¹ Op. Atty. Gen. 1939, p. 312.

³⁴² Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2235. Op. Atty. Gen. 1939, p. 351.

³⁴³ Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817; Baldwin 5269.

³⁴⁴ Acts 1927, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4308. Acts 1936 (Spec. Sess.);

and disburses it on proper warrants (formerly called orders) issued by the auditor and countersigned by the treasurer.³⁴⁵

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.³⁴⁶ The board designates depositories for public funds, after inviting and receiving proposals from banks and trust companies. The commission of a depository may be revoked by the board at any time.³⁴⁷ The resignation of a depository becomes effective 30 days after notice thereof to the board.³⁴⁸ Monthly statements are furnished by the depository to the board on or before the fifth day of each month, and are preserved in the office of the board.³⁴⁹ All public funds paid into the county treasury must be deposited by the treasurer daily, in the name of the county, in one or more of such designated depositories. On or before the fifth day of each month, the treasurer must file with the secretary of the board a statement of the balance of funds at the end of the previous month, consistent with the statement furnished by the depository.³⁵⁰ The treasurer deposits quarterly with the auditor all redeemed warrants.³⁵¹

When the auditor draws a warrant, he charges it against the appropriation and particular fund from which it was drawn. Apportionment is made if more than one fund or appropriation is involved.³⁵² Records of the warrants are kept in the manner prescribed by the State Board of Accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by

Burns, 1941 suppl., 52-1124; Baldwin 1937 suppl., 14078-25. *Morris v. State ex rel. Brown*, 96 Ind. 597 (1884).

³⁴⁵ Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103; Baldwin 5550. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³⁴⁶ Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

³⁴⁷ Acts 1937; Burns, 1941 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-

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³⁴⁸ Acts 1937; Burns, 1941 suppl., 61-640; Baldwin, 1937 suppl., 13844-61.

³⁴⁹ Acts 1937; Burns, 1941 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

³⁵⁰ Acts 1937; Burns, 1941 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

Defunct depositories. *State ex rel. Jackson v. Middleton*, 215 Ind. 219, 19 N. E. (2d) 470 (1939). *Op. Atty. Gen.* 1939, p. 247.

³⁵¹ 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Information obtained from E. P.

Brennan, *State Examiner*, on May 18, 1839, by W. Davis Hamilton.

³⁵² Acts 1899; Burns 26-514; Baldwin 5409.

statute.³⁵³ The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.³⁵⁴ Before issuing a warrant or quietus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.³⁵⁵

On claims (including claims on judgments) allowed by the board of commissioners, and on allowances made by courts for the cost of administration of justice, and on allowances by the clerk of the circuit court for clothing of insane paupers in institutions, and on allowances by the county director of public welfare for welfare assistance, the auditor issues his warrants. But warrants may be issued for expenses of insanity inquests, for management of the school funds, for clothing the insane, for salaries, to pay judgments, and for other liabilities for specific amounts fixed by law, when no allowance has been made as aforesaid.³⁵⁶ Warrants not called for within 5 years after the allowance of the claims on which they were drawn may be canceled by the board of commissioners, if not called for after publication of notice.³⁵⁷

A warrant drawn by the auditor on the treasurer must be accompanied by a carbon copy thereof, except in the case of State and township funds. If funds are available to pay the warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable. The original warrant is delivered to the payee, and the amount thereof is paid to the payee by the depository on presentation and surrender of the warrant. For the convenience of the payee, the treasurer may pay cash to the

³⁵³ 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on August 15, 1939, by W. Davis Hamilton.

³⁵⁴ 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

³⁵⁵ Acts 1909; Burns 60-215; Baldwin 13866.

³⁵⁶ Acts 1927, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4308. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 13844-48. Blue v. State ex rel. Powell, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

³⁵⁷ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

holder, on taking an assignment of the warrant, in which event such warrant will be deposited by the treasurer in the depository in lieu of cash.³⁵⁸ If no funds are available to pay the warrant, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment; and thereafter the warrant draws legal interest. Interest ceases when funds become available for payment and the treasurer or auditor publishes a call for redemption.³⁵⁹ Outstanding warrants are redeemed by the treasurer according to priority of time of presentment. Such warrants must be received in payment of county taxes without regard to such priority.³⁶⁰ When the treasurer redeems a warrant on which interest is due, he makes a notation thereon, and also in his account, showing the amount of interest paid.³⁶¹

Every public officer who receives or distributes public funds must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be kept open to public inspection.³⁶² The treasurer keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds. Current taxes are not entered on his account with the county until after his annual statement.³⁶³ At the end of March, June, September, and December, the treasurer makes out a report showing the amount of money in the county treasury and each distinct fund thereof. The report is examined by the board of commissioners at its next regular session.³⁶⁴

The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.³⁶⁵

The board of commissioners, at its first regular session

³⁵⁸ 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³⁵⁹ Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

³⁶⁰ 1 Rev. Stat. 1852; Burns 49-3113; Baldwin 5560.

³⁶¹ 1 Rev. Stat. 1852; Burns 49-3112; Baldwin 5559.

³⁶² Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

³⁶³ 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5534.

³⁶⁴ Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

³⁶⁵ 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns; 49-3104; Baldwin 5551.

each year, makes out a statement of the receipts and expenditures for the previous calendar year, and causes it to be published and posted.³⁶⁶ The treasurer makes complete settlements with the board of commissioners at its January session each year.³⁶⁷ Settlements by the board of commissioners are not binding on the county where the officer has failed to account for any money received by virtue of his office or failed to perform any duty required of him by law.³⁶⁸

All taxes collected by the treasurer must be deposited in the depository as one fund, except when otherwise provided by law. Semiannually the treasurer settles with the State and the municipal corporations within the county for taxes collected for them. Before such settlements, he advances not exceeding 80 percent when request by the proper officer is made to the auditor and a warrant is drawn by him.³⁶⁹

From time to time without notice, the books and accounts of county officers are audited by the State Examiner. Before 1909 the judge of the circuit court examined the office of the clerk of the circuit court and reported thereon to the board of commissioners; and the board of commissioners examined other county offices.³⁷⁰

PUBLIC DEBT

The Constitution of 1851 provides that the total amount of the county debt shall not exceed 2 percent of the value of the taxable property therein,³⁷¹ and a statute provides

³⁶⁶ Acts 1899; Burns 26-546; Baldwin 5411.

³⁶⁷ Acts 1899; Burns 26-531; Baldwin 5396.

Formerly the settlement was made in June. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

The State Board of Accounts now requires that settlements be recorded in the monthly balance record of the auditor and treasurer. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

Formerly the settlements were recorded in the order book (commonly called the "Commissioners' Record") of the board of commissioners. Acts 1899; Burns 26-531; Baldwin 5395.

³⁶⁸ Acts 1879 (Spec. Sess.); Burns 26-637; Baldwin 5341.

³⁶⁹ Acts 1937; Burns, 1941 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

³⁷⁰ 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236.

Acts 1897; Burns 26-636; Baldwin 5237. 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909, 1915; Burns 60-201, 60-211; Baldwin 13854, 13862. Op. Atty. Gen. 1939, p. 184. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

³⁷¹ Const. 1851, art. 13, sec. 1. Exception is made in case of war, foreign invasion, or other public calamity. *Ibid.*

that such debt shall not exceed 2 percent of the taxable property less the total of all mortgage exemptions.³⁷²

The borrowing of money for the county must be authorized by ordinance of the county council.³⁷³ The notes, bonds, or other evidence of indebtedness are executed by the county commissioners and attested by the auditor.³⁷⁴ The obligations may bear interest at a rate not exceeding 6 percent per annum. If the interest rate exceeds 5 percent the issuance must be approved by the State Board of Tax Commissioners.³⁷⁵ The council may provide for maturities at any time not exceeding 52 years from issuance.³⁷⁶

The bonds are issued after publication of notice, and must be sold for an amount not less than par value and accrued interest. If the amount of the bond issue is to exceed \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified to the State Board of Tax Commissioners for hearing and disposition.³⁷⁷

Temporary loans, evidenced by tax anticipation notes or warrants, may be authorized to meet current running expenses to an amount not exceeding the revenue for the current year, and only as an anticipation of such revenue. It is the duty of the county council each year to levy an annual tax to pay all such temporary loans.³⁷⁸

The county council must make a levy of not less than one-tenth of 1 percent on the taxable property of the county each year, for the purpose of retiring bonds previously issued; and the taxes collected therefrom must be invested in those bonds or other county securities, and shall constitute a sinking fund for the ultimate liquidation of such

Bonds for construction of an interstate bridge, payable only from proceeds of bridge tolls, held not a debt within the meaning of this constitutional provision. Same ruling as to costs of highway maintenance. *Bennett v. Spencer County Bridge Commission*, 213 Ind. 520, 13 N. E. (2d) 547 (1938).

³⁷² Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

³⁷³ *Ibid.*

³⁷⁴ Acts 1899, 1921; Burns 26-540; Baldwin 5405.

³⁷⁵ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

³⁷⁶ Acts 1899, 1921, 1929; Burns 26-532, 61-401; Baldwin 5396, 13896.

³⁷⁷ Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

³⁷⁸ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1933; Burns 26-1022; Baldwin 5397.

debt.³⁷⁹ The council must also levy each year a tax sufficient to pay interest for the year on bonds previously issued. If more taxes are collected under this levy than are needed to pay interest, such excess goes into the sinking fund to pay the principal.³⁸⁰

ELECTIONS

In Indiana there are three types of elections: Primary, special, and general. Primary elections are for the purpose of nominating party candidates for all offices (other than those to be voted on by the entire electorate of the State) and electing precinct committeemen and delegates to State conventions of political parties. The primary election is mandatory for each political party in the State casting for its candidate for Secretary of State 10 percent or more of the aggregate vote cast for all candidates for Secretary of State in the last general election.³⁸¹ All election days are legal holidays in the district or city where the election is held.³⁸² Special elections are held to fill vacancies in the Indiana General Assembly, vacancies in the office of Representative in Congress, and vacancies in offices required to be filled by special election. They are also held to fill all offices (except city and township) in case of a tie vote. They are ordered by the Governor, announced by the sheriff, and conducted in the manner in which general elections are conducted.³⁸³ The general election, held biennially, is for the purpose of filling existing vacancies in office and filling all offices the terms of which will expire before the next general election thereafter.³⁸⁴

Primary elections are held on the first Tuesday after the first Monday in May preceding the general elections.³⁸⁵ They are held under the supervision of the board of primary

³⁷⁹ 1 Rev. Stat. 1852, Acts 1859; Burns 26-1006; Baldwin 5247. Acts 1899; Burns 26-515; Baldwin 5379.

³⁸⁰ 1 Rev. Stat. 1852; Burns 26-1007; Baldwin 5248.

³⁸¹ Acts 1915; Burns 29-501; Baldwin 7187.

³⁸² Acts 1869; Burns 29-163; Baldwin 7171.

³⁸³ Acts 1905; Burns 29-1406; Baldwin 7382. Acts 1881 (Spec. Sess.); Burns 29-1505, 29-1701 to 29-1704; Baldwin 7182. 7246 to 7249. Acts 1933; Burns 29-1903; Baldwin 7252. Acts 1905, 1909; Burns 48-1246; Baldwin 11424.

³⁸⁴ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

³⁸⁵ Acts 1915, 1917; Burns 29-508; Baldwin 7194.

election commissioners, consisting of the clerk of the circuit court and two persons (of opposite political parties nominated by their respective county chairmen) appointed by him. This board prepares and distributes ballots for the primary elections.⁸⁸⁶ It serves as the county board of election commissioners at the next general election⁸⁸⁷ and as a canvassing board for all elections.⁸⁸⁸

Primary elections are conducted by the following officials for each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one pollbook holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote for Secretary of State at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriffs and pollbook holders are appointed in the manner in which they are appointed for general elections.⁸⁸⁹

General elections are held biennially on the first Tuesday after the first Monday in November of even-numbered years.⁸⁹⁰ County officers elected by the people are county commissioners, county councilmen, judge of the circuit court, clerk of the circuit court, auditor, treasurer, sheriff, coroner, recorder, prosecuting attorney, surveyor, and county assessor.⁸⁹¹ These elections are held under the supervision of the county board of election commissioners, which prepares and distributes the ballots therefor.⁸⁹²

⁸⁸⁶ Acts 1907, ch. 232, secs. 1, 13. Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the essay entitled "Board of Primary Election Commissioners."

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." State ex rel. Marion County Democratic Committee v. Marion Superior Court, 214 Ind. 322, 15 N.E. (2d) 379 (1938).

⁸⁸⁷ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

⁸⁸⁸ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁸⁸⁹ Acts 1915, 1917; Burns 29-505, 29-507; Baldwin 7191, 7193.

⁸⁹⁰ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

⁸⁹¹ See the separate essays for these offices.

⁸⁹² Acts 1889; Burns 29-1002; Baldwin 7109. See the essay entitled "County Board of Election Commissioners."

For a general election the county board of election commissioners appoints the election officials for each precinct, namely, one election inspector, two election judges, two poll clerks (and two assistant poll clerks if necessary), and two election sheriffs. The election inspector and election judges constitute the precinct board of election. The other precinct officials assist this board in conducting the general election. The election judges, poll clerks, and election sheriffs must be qualified voters of opposite political faith. They are nominated by the chairmen of their respective county central committees. The inspector and judges must have been freeholders and resident householders of the precinct for at least 1 year, or resident householders therein for at least 2 years preceding the election, unless persons having these qualifications are not available. The inspector of elections is nominated by the chairman of the party casting the highest number of votes in the county in the last election for Secretary of State. The township trustee serves as the election inspector in the precinct in which he resides unless he is disqualified. Each party may appoint one challenger and one pollbook holder in each precinct to represent that party in the challenge of voters.³⁹³

The Constitution provides that all elections shall be "free and equal," prescribes the length of residence required of an elector, designates the time of holding elections, and gives the Legislature power to provide for the registration of voters.³⁹⁴

All voters at general elections and State-wide special elections must be duly registered for voting;³⁹⁵ must be citizens of the United States; must be of the age of 21 years and upwards at the time of the election; and must have resided in the State 6 months, in the township 60 days, and in the ward or precinct 30 days, immediately preceding the election. Any person who has these qualifications may vote at the primary election next preceding the general or special election. If he is not so qualified at the time of the primary election but will be so qualified at the time of the general

³⁹³ Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

³⁹⁴ Const. 1851, art. 2, secs. 1, 2, 14.

³⁹⁵ Acts 1933; Burns 29-301; Baldwin 7299. Acts 1933, 1935; Burns, 1941 suppl., 29-336; Baldwin, 1935 suppl., 7334. See the essay entitled "Registration Officer."

or special election, he may vote in the primary election on making an affidavit in the form required by law for such voters.³⁹⁶ Students, soldiers, sailors, and marines acquire no residence in the State for voting purposes by virtue of temporary residence or of being stationed therein.³⁹⁷ The registration officer (the clerk of the circuit court *ex officio*) conducts the registration of voters.³⁹⁸

Any political or civic party, association, or organization may, at any time prior to any election, take a poll of voters qualified to vote at the next ensuing election, in any district, county, township, municipality, ward, precinct, or precincts of the State. The chairman, president, or other chief officer of the party, association, or organization taking such poll must issue to the person or persons employed in taking the poll a certificate showing the nature of such employment and the party, organization, or association for which the poll is taken. Failure to furnish correct information to these poll takers is punishable as a criminal offense.³⁹⁹

The board of county commissioners participates in various ways in the conduct of elections. The more important functions of the board in that connection are those of establishing election precincts and changing their boundaries;⁴⁰⁰ providing rooms for polling places and equipping them with voting booths and ballot boxes;⁴⁰¹ and the purchase of voting machines for the several precincts.⁴⁰²

Any qualified and registered elector of the county who, by reason of the nature of his business, attendance at some educational institution, or service in the Army or Navy, is absent or expects to be absent from the county on the day of holding an election may vote by an absent-voter's ballot which

³⁹⁶ U. S. Const. Amends. 14, 19. U. S. C., title 8, sec. 31 (law of 1870). Const. 1851, art. 2, sec. 2 (as amended in 1921). Acts 1915, 1917; Burns 29-510; Baldwin 7196. Acts 1881 (Spec. Sess.); Burns 29-703; Baldwin 7083. *Kelso v. Cook*, 184 Ind. 173, 110 N. E. 987 (1916).

³⁹⁷ Const. 1851, art. 2, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-705; Baldwin 7085. Acts 1935, 1941; Burns, 1941 suppl., 29-2601; Baldwin, 1941 suppl., 7086-1.

³⁹⁸ Acts 1933, 1935; Burns, 1941 suppl., 29-306; Baldwin, 1935 suppl., 7304.

³⁹⁹ Acts 1897; Burns 29-401 to 29-406; Baldwin 7343 to 7348.

⁴⁰⁰ Acts 1933; Burns 29-319; Baldwin 7317. Acts 1889, 1907; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

⁴⁰¹ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

⁴⁰² Acts 1939; Burns, 1941 suppl., 29-562; Baldwin, 1939 suppl., 7245-1. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

he, by mail or in person, procures from the clerk of the circuit court.⁴⁰³

When any elector presents himself to vote at an election, he is required to sign his name and address on the voters' poll list. In case of doubt concerning his identity, such signature is compared with the signature on the affidavit of registration. As soon as he has voted, a notation is made on his affidavit of registration showing he has voted at that election. If the voter cannot sign his name, it will be written for him by an election clerk, with the clerk's initials in parentheses, after the identity of the voter has been established by interrogation. If any member of the election board is not satisfied that any person who presents himself to vote is the person he represents himself to be, he may challenge the vote of such person, in which event such person must sign an affidavit as set forth in the next paragraph.⁴⁰⁴

When any person offering to vote is challenged by one of the challengers or by any member of the election board, he must stand aside and must not vote until he makes an affidavit in statutory form, and, in elections at which registration is required, produces his certificate of registration. The affidavit must state that he is a qualified and legal voter of the precinct and must set forth his name, residence, occupation, and place or places of residence during the 6 months immediately preceding the election, with the date of any removal within that time. It must also state the names of two persons who have personal knowledge of his residence in the precinct 30 days and the township 60 days immediately preceding the election. He will then be allowed to vote unless the challenger or some qualified voter of the precinct makes an affidavit that he knows, or is informed and verily believes, that the person offering to vote is not a legal voter in the precinct. If the latter affidavit is made on information and belief, it must set forth the names of the persons from whom such information was obtained. After this counter-affidavit is made, the person offering to vote cannot vote unless he presents the affidavit of another person showing that he is a legal voter of the precinct. Forms of these

⁴⁰³ Acts 1935, 1941; Burns, 1941 suppl., 29-2601 to 29-2623; Baldwin, 1941 suppl., 7348-1 to 7348-23.

⁴⁰⁴ Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306(a); Baldwin, 1941 suppl., 7304. Acts 1889, 1899; Burns 29-332; Baldwin 7330.

affidavits are set out in the statutes and printed blanks containing the same are available at each voting place.⁴⁰⁵

The board of canvassers (consisting of the election commissioners,⁴⁰⁶ with the clerk of the circuit court acting as clerk)⁴⁰⁷ tabulates and compiles the election returns, files all data, canvass sheets, certificates, pollbooks, and tally papers in the office of the clerk, and certifies the candidates elected.⁴⁰⁸ Each of the four major political parties is entitled to have one watcher present during the voting and canvassing at general elections.⁴⁰⁹ Each political party represented at a primary election and each daily newspaper of general circulation is entitled to similar watchers at the canvassing of ballots cast at such primary election.⁴¹⁰

Recount of ballots must be ordered by the circuit court if a petition and cost bond therefor are presented by a defeated candidate within 15 days after the election. Such recount is made by commissioners appointed by the court, and it supersedes the certificate of the county board of canvassers. Thereafter the court hears the contentions of the parties and determines the result of the election.⁴¹¹

Each candidate for public office must file with the clerk of the circuit court, within 30 days after the election (general, special, or primary), a sworn statement setting forth his election expenses and promises. Failure to file such statement is a criminal offense and disqualifies the candidate from holding the office sought by him in such election.⁴¹²

EDUCATION

FUNDS

The Ordinance of 1787, which created the Northwest

⁴⁰⁵ Acts 1933; Burns 29-1122; Baldwin 7136.

⁴⁰⁶ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁴⁰⁷ Acts 1905; Burns 29-1402; Baldwin 7378.

⁴⁰⁸ Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

Duty to disregard all improperly marked ballots. *Craney v. Traylor*, 214 Ind. 542, 16 N. E. (2d) 845 (1938).

⁴⁰⁹ Acts 1897, 1901, 1909, 1941; Burns, 1941 suppl., 29-1301; Baldwin 1941 suppl., 7147.

⁴¹⁰ Acts 1915; Burns 29-527; Baldwin 7213. Acts 1931; Burns 29-528; Baldwin 7214. Acts 1939; Burns, 1941 suppl., 29-569; Baldwin, 1939 suppl., 7245-8.

⁴¹¹ Const. 1851, art. 2, sec. 14 (as amended in 1881). Acts 1933, ch. 242. Acts 1935, ch. 82. Acts 1941, ch. 122. State ex rel. Lord v. Sullivan, 214 Ind. 279, 15 N. E. (2d) 384 (1938); State ex rel. Robertson v. Lake Circuit Court, 215 Ind. 18, 17 N. E. (2d) 805 (1938); Gossard v. Vawter, 215 Ind. 581, 21 N. E. (2d) 416 (1939).

⁴¹² Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445.

Territory and provided for the creation of not less than three nor more than five States therefrom (of which Indiana was one), contained the following provision: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."⁴¹³ The act of Congress of April 19, 1816 for the admission of Indiana Territory as a State contained the following provision: "Section numbered sixteen, in every township, and when such section has been sold, granted or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township for the use of schools." The moneys arising from the sale of such lands became known as the "Congressional township fund."⁴¹⁴ These funds were not handled efficiently before 1851.⁴¹⁵

Interest in education grew slowly before 1849. In that year the first tax law for the support of schools was passed.⁴¹⁶ Previous to the imposition of this school tax, the only sources of revenue for school operation were liquor license fees, fines for breach of the penal laws, numerous statutory penalties, leases of school lands, and interest on loans from the Congressional township fund.⁴¹⁷ It was not until after the adoption of the Constitution of 1851 and the passage of the school law of 1852 that education received any effective attention from the State.⁴¹⁸ The school law of 1865 brought the most complete revision.⁴¹⁹ The Constitution provides that the General Assembly shall encourage and provide for a general and uniform system of common schools.⁴²⁰

The Constitution of 1851 established the common school fund composed of the Congressional township fund and the lands belonging thereto; the surplus revenue fund; the bank tax fund; the saline fund and the lands belonging thereto;

⁴¹³ U. S. Stat. 1:52 note (law of 1787).

⁴¹⁴ U. S. Stat. 3:289 (law of 1816).

⁴¹⁵ Logan Esrey, *History of Indiana*, II, 679.

⁴¹⁶ Acts 1848-49 (general), ch. 115, sec. 1. Fassett A. Cotton, *Education in Indiana (1793 to 1934)*, p. 10.

⁴¹⁷ Acts 1816-17, ch. 11, sec. 12; ch. 27, sec. 1. Acts 1817-18 (general), ch. 4, sec. 3; ch. 20, sec. 2; ch. 32, sec. 9. Acts 1818-19, ch. 5, sec. 2. Rev. L. 1824, ch. 22, sec. 2; ch. 39, sec. 9. Acts 1829-30, ch. 9, sec. 4. Rev. L. 1831, ch. 54, sec. 15; ch. 86, secs. 16, 50.

⁴¹⁸ Const. 1851, art. 8. 1 Rev. Stat. 1852, ch. 98.

⁴¹⁹ Acts 1865; Burns 28-101; Baldwin 6499.

⁴²⁰ Const. 1851, art. 8, sec. 1.

the funds to be derived from the sale of county seminaries, and the moneys and properties previously held for such seminaries; fines and forfeitures; decedents' estates escheated to the State for want of heirs; taxes on the property of corporations which may be assessed by the General Assembly for common school purposes; and all lands granted to the State without designation of purpose, and the proceeds of sale thereof (including the proceeds of sale of swamplands granted in 1850, less the expense of selection and drainage).⁴²¹ The provision concerning the sale of seminary properties and transfer of funds derived therefrom was declared void by the Supreme Court of Indiana in 1862.⁴²²

The Constitution of 1851 further provided that the principal of the common school fund must remain a perpetual fund and be invested so that it might increase but never diminish; and that the interest earned by the fund might be expended for the support of the common schools and for no other purpose. The General Assembly was required to invest all funds that were not already under the supervision of the counties, and was directed to provide laws for the distribution of the interest to the counties.⁴²³

The school funds managed by the county are kept by the county auditor in three separate accounts: (a) The common school fund; (b) the Congressional township fund; and (c) the permanent endowment fund of Indiana University. The last fund was derived from a tax levy of one-half of 1 cent on each \$100 of taxable property for the years 1883 through 1895, and was distributed among the several counties according to population. Loans from these three funds are made by the county school fund board. Each county is held liable for the preservation of the funds entrusted to it, and for the payment of the annual interest. The interest on the Congressional township fund remains in the township and is distributed to the school township and the school cities and school towns therein. The basis of this distribution is the average daily attendance of school children in these school

⁴²¹ Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101; Baldwin 6499.

Fines for contempt of court go into the common school fund. *Swift v. State ex rel. Clark*, 63 Ind. 81 (1878).

Swamplands granted to State. U. S. Stat., 9:519 (law of 1850).

⁴²² *Edwards v. Jagers*, 19 Ind. 407 (1862).

⁴²³ Const. 1851, art. 8, secs. 3-5. Acts 1865; Burns 28-101; Baldwin 6499. Acts 1907; Burns 28-102; Baldwin 6500.

corporations. The interest on the Congressional township fund and the interest on the common school fund are treated as a combined fund for the purpose of computing the apportionment and distribution of the common school fund, which is distributed from the State treasury to the counties on the basis of average daily attendance therein. The amount received by each county from the interest on the common school fund is apportioned by the county auditor to the townships, school cities, and school towns within the county on the basis of average daily attendance. The amount of revenue received by a school corporation from the Congressional township fund is credited on the amount apportioned to such school corporation under the combined fund. The interest on the common school fund and Congressional township fund is used for the support of the common schools in the school corporations participating therein. Marshall County (including Plymouth) received \$9,322.37 for the school year 1939-40 from this source. The interest on the permanent endowment fund of Indiana University is paid to the State Treasurer, and he pays it to the trustees of Indiana University.⁴²⁴

The interest on the school funds aforesaid is supplemented by other funds provided by the General Assembly for the public schools. From the general fund, the State supplies the county with tuition support of not less than \$700 annually for each teaching unit of 35 pupils in average daily attendance in grades 1 to 8, and for each unit of 25 pupils in average daily attendance in grades 9 to 12. This fund is known as the "school tuition support fund."⁴²⁵ The total amount received by Marshall County (including Plymouth) from this source during the school year 1939-40 was \$119,700.⁴²⁶

⁴²⁴ Const. 1851, art. 8, secs. 2-7. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865; Burns 28-104, 28-105; Baldwin 6499-1, 6511. Acts 1865, 1873, 1897; Burns 28-1008, 28-1019; Baldwin 6485, 6496. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490. Board of County Comrs. v. State ex rel. Hard, 103 Ind. 497, 3 N. E. 165 (1885). Board of County Comrs. v. Michener, 120 Ind. 442, 22 N. E. 339 (1889). *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38. Information obtained from E. P. Brennan, State Examiner, on February 26, 1941, by Emerson Brock. See the essay entitled "County School Fund Board."

Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. Fisher v. Brower, 159 Ind. 139, 64 N. E. 614 (1902).

⁴²⁵ Acts 1933, 1935, 1937; Burns, 1941 suppl., 28-1001 to 28-1003; Baldwin, 1937 suppl., 6502 to 6504.

⁴²⁶ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

From the moneys raised from the excise tax against dealers in alcoholic beverages, one-third is distributed to the school corporations on the basis of average daily attendance.⁴²⁷ Marshall County (including Plymouth) received \$5,771.44 from this source for the school year 1939-40.⁴²⁸

A State stamp tax on intangible property has further provided financial aid to the schools. The money is collected and held separate from the general fund. Of the total amount, 10 percent is kept by the State for the expense of administering that tax, and the remainder is apportioned to the counties on the basis of assessed valuation of real property in the several counties. One-fourth of the amount received by each county is retained for its general fund, and the remainder is distributed to the school taxing units in the county on the basis of assessed valuation of real property in the several units.⁴²⁹ For the school year 1939-40 Marshall County and the school taxing units therein received \$6,366.80 from this source.⁴³⁰

In 1933 the common school relief fund was established for the purpose of aiding schools to continue in operation. The fund is derived from a 7 cent tax levy on each \$100 of taxable property, real or personal, and a poll tax of 50 cents on each taxable poll.⁴³¹ Whenever any township trustee or board of trustees of any school town or school city ascertains that there is an insufficient amount of revenue to maintain the school for a term not to exceed 8 months, such trustee or board must file with the county superintendent of schools a certificate showing the needs of such township, school town, or school city, and its outstanding debts and accounts.⁴³² The county superintendent of schools forwards the certificate to the State Board of Education,⁴³³ and this board and the State Board of Accounts must examine the certificate and decide on the amount to be allotted to the school unit. In connection with the award of such relief funds, the State

⁴²⁷ Acts 1935, 1939; Burns, 1941 suppl., 12-811; Baldwin, 1939 suppl., 3761-40f. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 23-1013; Baldwin 6490.

⁴²⁸ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴²⁹ Acts 1933; Burns 61-922; Baldwin 15920.

⁴³⁰ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴³¹ Acts 1931, ch. 163, sec. 1. Acts 1933; Burns 28-901; Baldwin 6431.

⁴³² Acts 1931, ch. 163, sec. 4. Acts 1933; Burns 28-903; Baldwin 6433. Acts 1933, 1941;

Burns, 1941 suppl., 28-906; Baldwin 1941 suppl., 6436.

⁴³³ Acts 1931, ch. 163, sec. 5. Acts 1933; Burns 28-904; Baldwin 6434.

Board of Education may require the recipient to make sufficient appropriations, tax levies, and tax rates to liquidate its outstanding debts and accounts as set forth in the certificate aforesaid.⁴³⁴ The money received must first be used to pay any unpaid items of operating expenses which accrued before the making of such application; and any surplus must be used for the operating expenses of the current school year.⁴³⁵ Marshall County received \$192.93 from this fund for the school year of 1939-40.⁴³⁶

The State has designated certain funds for the advancement of vocational education. Marshall County received \$4,363.75 for this purpose in the school year 1939-40.⁴³⁷

From 1927 until 1937 any surplus in the county dog fund on the first Monday in March each year, after provision was made for certain disbursements therefrom, was distributed for the schools of the county in the same manner the "common school revenue of such county" was distributed. A 1937 law provides that any money in the "State dog account" in excess of \$50,000 remaining after certain annual distributions therefrom must be transferred by the Auditor of State to the "State school revenue fund."⁴³⁸ Other available school funds, not otherwise accounted for and including such items as school transfers, sale of school property, donations etc., are known as "miscellaneous revenue receipts," from which Marshall County received \$11,330.18 for the school year 1939-40.⁴³⁹

The total amount received by Marshall County (including Plymouth) to be used for school purposes from all the above mentioned sources for the school year 1939-40 was \$157,046.97.⁴⁴⁰

⁴³⁴ Acts 1931, ch. 163, sec. 6. Acts 1933; Burns 28-905; Baldwin 6435. Acts 1933, 1941; Burns, 1941 suppl., 28-906; Baldwin, 1941 suppl., 6436.

⁴³⁵ Acts 1933, 1935; Burns, 1941 suppl., 28-907; Baldwin, 1935 suppl., 6437. Op. Atty. Gen. 1939, p. 197.

⁴³⁶ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴³⁷ Acts 1913, 1919; Burns 28-4902; Baldwin 6448. *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴³⁸ Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1935, ch. 271, sec. 4. Acts 1937; Burns, 1941 suppl., 16-326, 16-327; Baldwin, 1937 suppl., 3811-10, 3811-11. *Finerty v. State ex rel. School City of Gary*, 213 Ind. 470, 12 N. E. (2d) 941 (1938).

⁴³⁹ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴⁴⁰ *Ibid.*

The school cities, towns, and townships may levy property taxes and poll taxes⁴⁴¹ for the following school purposes: Renting, repairing, and constructing schoolhouses; furnishings, apparatus, fuel, tuition, and other current expenses;⁴⁴² to enforce compulsory education and keep poor children in school;⁴⁴³ to provide free textbooks;⁴⁴⁴ to provide rooms and equipment for the teaching of agriculture, home economics, physical culture, and practical mental culture;⁴⁴⁵ establishment of vocational schools;⁴⁴⁶ and for the retirement of school bonds.⁴⁴⁷ Local taxation produced \$327,057.03 for educational purposes in Marshall County (including Plymouth) in the school year 1939-40.⁴⁴⁸

ORGANIZATION

There are two major types of school organizations: (a) County schools; and (b) town and city schools. The "county schools" are, in reality, township schools and are operated by the township trustees severally. The town and city schools are operated in a similar manner by school boards composed of three members appointed by the board of town trustees or the city council, respectively.⁴⁴⁹ All public schools are under the control of the Legislature. Local government units act only as legislative agencies in the operation of schools.⁴⁵⁰

The county superintendent of schools, who is elected by the township trustees, has charge of each township institute, aids the trustee in the supervision of the township schools, and carries out all orders and instructions of the State Superintendent of Public Instruction and the State Board of Education. He has no supervision of city or town schools.⁴⁵¹

⁴⁴¹ Acts 1919; Burns 61-101; Baldwin 15514.

⁴⁴² Acts 1865, 1873, 1905, 1917; Burns 28-1101; Baldwin 6442.

⁴⁴³ Acts 1921; Burns 28-513; Baldwin 6706.

⁴⁴⁴ Acts 1935; Burns, 1941 suppl., 28-624, 28-628, 28-629; Baldwin, 1935 suppl., 6677-1,

6677-5, 6677-6.

⁴⁴⁵ Acts 1913; Burns 28-3421; Baldwin 6468.

⁴⁴⁶ Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

⁴⁴⁷ Acts 1937; Burns, 1941 suppl., 28-3218; Baldwin, 1937 suppl., 6623-11.

⁴⁴⁸ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴⁴⁹ Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962.

⁴⁵⁰ *Anderson v. Brand*, 214 Ind. 347, 5 N. E. (2d) 531, 913, 7 N. E. (2d) 777, 13 N. E. (2d)

955 (1938).

⁴⁵¹ Acts 1899, 1911, 1913; Burns 28-702, 28-704, 28-705; Baldwin 5931, 5938, 5940. State ex

The township trustees, the county superintendent of schools, and the chairman of the board of school trustees of each city and town in the county compose the county board of education. The city and town school trustees (other than the chairman of the board) may attend the meetings of the county board of education but have no vote in the proceedings. The county board of education meets semiannually to consider the general needs of the schools.⁴⁵²

The local school systems are closely supervised by the State Board of Education, with the State Superintendent of Public Instruction as its administrative head.⁴⁵³ One of the most important functions of the State Board of Education is the issuing of teachers' licenses. These are graded according to the kind and amount of training and experience of the licensee.⁴⁵⁴ The State Board of Education provides for the inspection of schools,⁴⁵⁵ adopts a uniform series of textbooks,⁴⁵⁶ and prescribes an accredited course of instruction for teacher training.⁴⁵⁷

Except as otherwise provided hereinafter, every child between the age of 7 and 16 years must attend "public school or other school taught in the English language which is open to the inspection of local and State attendance and school officers;" and the child must attend "such a school each year during the entire time the public schools are in session in the school district in which such child resides." A child will be excused for 1 year on a certificate of a physician that the child is physically or mentally unfit for school attendance. Children who are deaf or blind may be sent to the Indiana State School for the Deaf or the Indiana State School for the Blind. The judge of the circuit court, when sitting as a juvenile court, may suspend the provisions of the

rel. *Nebeker v. Sutton*, 99 Ind. 309 (1884); *State ex rel. Drummond v. Dillon*, 125 Ind. 65, 25 N. E. 136 (1890). See the essay entitled "County Superintendent of Schools."

⁴⁵² Acts 1873, 1877; Burns 28-801; Baldwin 5983. Information obtained from Grover Van Duyn, Assistant State Superintendent of Public Instruction, on July 26, 1939, by W. Davis Hamilton. See the essay entitled "County Board of Education."

⁴⁵³ Acts 1865; Burns 28-301, 28-302; Baldwin 5890, 5891. Acts 1913; Burns 28-401; Baldwin 5906. Acts 1939; Burns, 1941 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

⁴⁵⁴ Acts 1865; Burns 28-404; Baldwin 5920. Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928.

⁴⁵⁵ Acts 1921; Burns, 28-304, 28-305; Baldwin 6048, 5939.

⁴⁵⁶ Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6672.

⁴⁵⁷ Acts 1923; Burns 28-4205; Baldwin 5916.

compulsory attendance law in cases of juvenile delinquents and incorrigibles, and may make special provisions for their education, such as placing them in special private schools or in the State correctional schools (Indiana Boys' School and Indiana Girls' School).⁴⁵⁸

Whenever colored children reside in any school corporation, the school trustee or trustees may establish separate schools for them. These schools must provide rights, privileges, and advantages equal to those in the other schools in the corporation. If no such school is available, colored children must attend the public schools with white children.⁴⁵⁹ Colored schools are represented on the State Board of Education by the required presence of one member of the negro race.⁴⁶⁰

In 1913 the General Assembly first provided that school corporations might establish vocational schools or departments for industrial, agricultural, and home economics education. These courses are established in a manner approved by the State Board of Education, and are maintained by the regular school funds or by a special tax levy.⁴⁶¹ Classes may be held during the day or evening. The instruction is of less than college grade, but designed to meet the needs of persons over 14 years of age.⁴⁶²

Township trustees may furnish free transportation of pupils to and from township schools. If such transportation is provided, free transportation must also be furnished along the regular route for pupils attending parochial schools. If a township school is discontinued without being consolidated with a town school or city school, the township trustee must assign the pupils to another school and furnish transportation for those who live more than 1½ miles from the school to which they are assigned. In case of consolidation of a township school with a town school or city school, transportation must be furnished for all pupils who live more

⁴⁵⁸ Acts 1903, 1913, 1931, 1935, 1937; Burns, 1941 suppl., 9-2801; Baldwin, 1937 suppl. 1759. Acts 1903, 1905, 1907, 1913; Burns 9-2814; Baldwin 1761. Acts 1921; Burns 28-505; Baldwin 6698. Op. Atty. Gen. 1929, p. 322.

⁴⁵⁹ Acts 1869 (Spec. Sess.), 1877, 1935; Burns, 1941 suppl., 28-5104; Baldwin, 1935 suppl. 6012.

⁴⁶⁰ Acts 1939; Burns, 1941 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

⁴⁶¹ Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

⁴⁶² Acts 1913, 1919; Burns 28-4903; Baldwin 6449.

than $\frac{1}{2}$ mile outside the corporate limits of the town or city in which the consolidated school is located.⁴⁶³

PUBLIC HEALTH

The Indiana State Board of Health closely supervises and directs all local public health activities.⁴⁶⁴ Public health services are administered in Marshall County by a part-time county health officer and a full-time public health nurse. They are appointed by the board of commissioners, subject to approval by the State Board.⁴⁶⁵ The State Board of Health is composed of several bureaus which perform many services for the local health officers. Some of these bureaus furnish laboratory services such as inspection of dairy products, analysis of water, food, and drugs, and making of bacteriological and pathological tests.⁴⁶⁶

The educational facilities offered by the State Board are many. Literature, lectures, lantern slides, and motion picture films are available for use in schools and clubs or organizations desiring information on public health. These facilities may be obtained from the Bureau of Health and Physical Education, the Bureau of Communicable Diseases, and the Bureau of Venereal Diseases.⁴⁶⁷

The State Board of Health distributes insulin, pneumonia serum, diphtheria toxoid, smallpox virus, and typhoid bacterins to physicians for indigent patients.⁴⁶⁸

⁴⁶³ Acts 1917, 1921; Burns 28-1220, 28-1228; Baldwin 6197, 6206. Acts 1925; Burns 28-1231, 28-1241; Baldwin 6208, 6218. Acts 1929; Burns 28-1242, 28-1252; Baldwin 6219, 6229. Acts 1935; Burns, 1941 suppl., 28-1266, 28-1274; Baldwin, 1935 suppl., 6230-1, 6230-9. Acts 1907, 1909, 1935, 1937; Burns, 1941 suppl., 28-2803; Baldwin, 1937 suppl., 6251. Acts 1921, 1933; Burns 28-2805; Baldwin 6266. Acts 1927; Burns 28-3504; Baldwin 6079. Acts 1917; Burns 28-3801; Baldwin 6271. Acts 1937; Burns, 1941 suppl., 28-3810; Baldwin, 1937 suppl., 6266-1. Op. Atty. Gen. 1939, pp. 25, 74, 91, 366.

⁴⁶⁴ Acts 1891, 1909; Burns 35-105, 35-106; Baldwin 8390, 8391.

⁴⁶⁵ Acts 1935; Burns, 1941 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6. See the essay entitled "County Health Officer."

⁴⁶⁶ Acts 1921; Burns 22-203; Baldwin 4141. Acts 1919; Burns 35-214; Baldwin 8428. Acts 1905; Burns 35-302; Baldwin 8394.

Test for rabies. Acts 1935; Burns, 1941 suppl., 35-711; Baldwin, 1935 suppl., 3863-1.

⁴⁶⁷ Acts 1891, 1909; Burns 35-106; Baldwin 8391. Information obtained from Dr. Verne K. Harvey, director of the State Board of Health, on August 17, 1939, by W. Davis Hamilton.

⁴⁶⁸ Acts 1907, 1919, 1929, 1935, 1939; Burns, 1941 suppl., 35-701 to 35-703, 35-710, 35-712; Baldwin, 1935 suppl., 13392 to 13394, 13395-1; Baldwin, 1939 suppl., 13395-2.

Health laws provide that public water supplies must be inspected by the State Board of Health;⁴⁶⁹ that manufacturing, storage, and retail establishments dealing in foodstuffs must maintain certain standards of sanitation and cleanliness;⁴⁷⁰ that dwellings which are unsanitary, unsafe, unhealthful, or rendered uninhabitable by "the existence on the premises of a nuisance likely to cause sickness" among the occupants must be properly inspected and ordered vacated;⁴⁷¹ that health officers must ascertain the existence of rat infestations, order their extermination, and recommend methods of extermination.⁴⁷²

Food and drug products are inspected in the State laboratory for adulteration or misbranding.⁴⁷³ Dairy products are tested for butter fat content and weight.⁴⁷⁴

Contagious diseases must be reported to the State Board and properly quarantined by the health officer.⁴⁷⁵ All cases of tuberculosis⁴⁷⁶ and leprosy must be reported to the State Board of Health as soon as they are diagnosed. The State Board has jurisdiction to direct the care and disposition of lepers.⁴⁷⁷

All birth certificates must show that the attendant at such birth took the proper precautions to prevent ophthalmia neonatorum (the disease causing infant blindness).⁴⁷⁸ If an infant's eyes show any sign of infection within 2 weeks after the date of birth, a written report thereof must be made to the health officer within 6 hours after such discovery.⁴⁷⁹

All persons applying to the clerk of the circuit court for a marriage license must present a certificate from a licensed physician stating that the applicant is not infected with communicable syphilis. Before giving such certificate,

⁴⁶⁹ Acts 1909; Burns 35-202, 35-203; Baldwin 8411, 8412.

⁴⁷⁰ Acts 1909; Burns 35-1001, 35-1009; Baldwin 8504, 8512. Acts 1919; Burns 35-1101, 35-1103; Baldwin 8514, 8516.

⁴⁷¹ Acts 1917; Burns 35-1801; Baldwin 8563.

⁴⁷² Acts 1913; Burns 35-1601, 35-1602; Baldwin 8570, 8571.

⁴⁷³ Acts 1905; Burns 35-302; Baldwin 8394. Acts 1907; Burns 35-1201; Baldwin 8432. Acts 1939, ch. 38.

⁴⁷⁴ Acts 1913; Burns 35-1301; Baldwin 8455.

⁴⁷⁵ Acts 1903; Burns 35-401, 35-403; Baldwin 8531, 8533.

⁴⁷⁶ Acts 1917; Burns 35-601, 35-602; Baldwin 8402, 8552.

⁴⁷⁷ Acts 1917; Burns 35-501 to 35-503; Baldwin 8543 to 8545.

⁴⁷⁸ Acts 1911; Burns 35-901; Baldwin 8558.

⁴⁷⁹ Acts 1911; Burns 35-903; Baldwin 8560.

the physician must have a blood specimen of the applicant examined by the laboratory of the State Board of Health or a laboratory approved by the Board. The test must be made not more than 30 days before the application for a license. The judge of the circuit court may waive these requirements at any time in case of "emergency or other causes shown by affidavit or other proof."⁴⁸⁰

The county health officer enforces the State health laws and the regulations of the State Board of Health; promotes health education; collects vital statistics; makes periodic reports to the State Board of Health; and keeps records of these reports in his record books.⁴⁸¹

Counties have statutory authority to construct and maintain public hospitals,⁴⁸² but conditions prevailing in Marshall County have not required a county hospital.

VITAL STATISTICS

In Indiana the collection of vital statistics is supervised by the Bureau of Vital Statistics of the State Board of Health.⁴⁸³ The county health officer makes the collection of local data on forms supplied by the State Board of Health, and periodically delivers reports of all records to the State Board. The health officer collects statistics of births, deaths, marriages, and communicable diseases. Physicians, midwives, the clerk of the circuit court, and all responsible householders are required to report to the county health officer the facts needed for such statistics.⁴⁸⁴ Physicians must report certain communicable diseases direct to the State Board of Health.⁴⁸⁵

All birth reports are to be made to the health officer within 36 hours after birth. Stillbirths of 7-months gestation and over are reported as births and deaths. A child that lives and breathes after birth, no matter how brief the period, and regardless of the period of gestation, is a living

⁴⁸⁰ Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁴⁸¹ Acts 1935; Burns, 1941 suppl., 35-118, 35-122, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-6.

⁴⁸² Acts 1917, 1919, 1921, 1925, 1927; Burns 22-3215; Baldwin 4517. Acts 1903, 1939; Burns, 1941 suppl., 22-3201; Baldwin, 1939 suppl., 4507.

⁴⁸³ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

⁴⁸⁴ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

⁴⁸⁵ State Board of Health, *Book of Instructions to Health Authorities*, Rule 10, p. 13.

child; and if he thereafter dies, his birth and death must be reported and recorded.⁴⁸⁶

An act of 1939, effective January 1, 1940, requires each birth report to state whether a test for syphilis was made of the mother during pregnancy or at delivery. If such test was made the date must be shown but not the result.⁴⁸⁷

An act of 1941 provides that any person who has been a bona fide resident of a county in Indiana for more than one year (such residence to be proved by testimony of two householders of the county) may apply to the circuit court or superior court of such county to establish the time and place of his birth; that on the filing of his application the clerk must give public notice thereof by publication one time in a newspaper of general circulation; that the court must hear such application without a jury and may make an order declaring the time and place of applicant's birth; that the clerk must enter the order in a separate record to be known as the "birth certificate record" and must keep an index thereto; that a copy of the order, to be furnished by the clerk, is prima facie evidence of the time and place of birth; and that the cost of publication must be paid by the applicant but no other costs may be charged against him.⁴⁸⁸

Another act of 1941 provides that when a judgment establishes the paternity of a child born out of wedlock, the clerk of the court must immediately prepare and transmit to the city or county health officer having the child's birth record a certified statement showing the name of the child, the date and place of its birth, the name and residence of its parents, and any additional information required by the State Board of Health. The health officer must immediately record the statement in a manner prescribed by the State Board and transmit it to the State Board for permanent filing. The fact that the child was born out of wedlock must not be disclosed except on order of a court when such fact is required for the determination of personal or property rights.⁴⁸⁹

Another act of 1941 provides that when a decree of adoption is rendered, the clerk must transmit to the State Department of Public Welfare and to the officer having the

⁴⁸⁶ Acts 1907, 1911, 1913; Burns 35-115, 35-116, 35-901; Baldwin 8398, 8399, 8358. State Board of Health, *op. cit.*, Rule 4, p. 10.

⁴⁸⁷ Acts 1939; Burns, 1941 suppl., 35-805; Baldwin, 1939 suppl., 8557-2.

⁴⁸⁸ Acts 1941; Burns, 1941 suppl., 3-2901 to 3-2907; Baldwin, 1941 suppl., 8405-1 to 8405-7.

⁴⁸⁹ Acts 1941; Burns, 1941 suppl., 3-619; Baldwin, 1941 suppl., 5699-27.

child's original birth record a certificate of adoption, signed by the judge, which must contain the full adopted name of the child, the date of its birth, the names and exact place of residence of the adopting parents, the name of the court, and the date of the decree. The former name of the adopted child must be omitted if the child is illegitimate or if the judge is of the opinion that such omission would be for the best interest of the child. If the original birth record of the child is in Indiana, the officer in charge thereof must record the certificate, retain the original birth record, and upon request must issue a birth certificate for such child showing the child's new name, its sex and date of birth, and the names of its foster parents, with no indication of the adoption or illegitimacy.⁴⁹⁰

Deaths are reported as soon as possible, because a body may not be buried until a burial permit has been issued by the health officer in charge, and burial permits are not issued until the death certificate is completed. If death has occurred by means of violence or criminal practices, the death notice is referred to the coroner. Burial may be made anywhere in the State regardless of the county in which the permit is issued. When a death occurs outside the State, and the body is brought into the State for interment, the burial permit must be based on the transportation permit, and no record of the death is required.⁴⁹¹ The burial permit is preserved with the records of the cemetery.⁴⁹²

Certified copies of the official records of births and deaths are furnished by the county health officer or the State Board of Health on request of any applicant. Courts and public officials will receive these copies as proof of the facts stated therein.⁴⁹³

The clerk of the circuit court issues all marriage licenses, and makes a monthly report to the county health officer showing marriage statistics. The health officer records each marriage in his record book, and sends a quarterly report to the State Board of Health. Every marriage must be reported on an official blank, by the person performing the ceremony, within 3 days after the occurrence thereof, to

⁴⁹⁰ Acts 1941; Burns, 1941 suppl., 3-125; Baldwin, 1941 suppl., 5699-44.

⁴⁹¹ Acts 1907, 1913; Burns 35-115; Baldwin 8398. State Board of Health, *op. cit.*, Rule

3, p. 9.

⁴⁹² Acts 1939; Burns, 1941 suppl., 20-1021; Baldwin, 1939 suppl., 4617-21.

⁴⁹³ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

the clerk of the circuit court of the county where the license was issued. The clerk keeps a record of each reported marriage, and will furnish a certified copy thereof on request of any applicant. Courts and public officials will receive these copies as proof of the facts therein stated.⁴⁹⁴

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the local health officers to the State Board of Health.⁴⁹⁵

The heads of all public and private institutions, such as hospitals, poor asylums, and places of confinement, are required to keep all statistics concerning the inmates and make reports directly to the State Board of Health as required by the board.⁴⁹⁶

No law requires the keeping of divorce records separate from other records of other judgments; and no law requires the reporting or compiling of divorce statistics. A certified copy of a divorce decree rendered in a divorce suit in the county may be obtained from the clerk of the circuit court.

WELFARE ASSISTANCE

An important public service is the administration of the Public Welfare Act by the county department of public welfare, under the supervision of the Indiana State Department of Public Welfare.⁴⁹⁷

A recipient of old-age assistance must be at least 65 years old; must be a citizen of the United States; must have lived in the State for 5 years out of the last 9, the last year continuously; must be in need; must not be an inmate of a municipal, State, or National institution; and, within the 5 years immediately before his application, must not have transferred his property to render himself eligible for assistance.⁴⁹⁸ He must reveal all property and income

⁴⁹⁴ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Acts 1905, 1917; Burns 44-205; Baldwin 5625. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. State Board of Health, *op. cit.*, Rule 5, p. 11.

Injunction against illegal issuance of license. *Sweigart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

⁴⁹⁵ Acts 1907, 1913; Burns 35-115; Baldwin 8398. State Board of Health, *op. cit.*, Rule 6, p. 11.

⁴⁹⁶ Acts 1907, 1913; Burns 35-117; Baldwin 8400.

⁴⁹⁷ See the essay entitled "County Department of Public Welfare."

⁴⁹⁸ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1201; Baldwin, 1937 suppl., 14078-32.

in which he has an interest.⁴⁹⁹ After an investigation the county department may grant him assistance, never exceeding \$40 a month.⁵⁰⁰

A blind person (his better eye having a disqualifying visual field defect or vision of not more than 20/200 with correcting glasses), in order to receive State assistance, must be 21 years old if a male or 18 years old if a female; must be a citizen of the United States; must have lost his eyesight while a resident of the State or have lived in the State 5 of the last 9 years, the last year continuously; must be in need; must not be an inmate of a municipal, State, or National institution; must not have transferred his property within the 5 years immediately before his application for the purpose of rendering himself eligible for assistance; and must not solicit alms while receiving assistance.⁵⁰¹ The amount he receives is determined by the county department after an investigation of his needs⁵⁰² and never exceeds \$40 a month⁵⁰³ except as temporary assistance is given for treatment of his eyes.⁵⁰⁴ Blind children may be sent to the school for the blind near Indianapolis.⁵⁰⁵

A dependent child must have lived in the State 1 year preceding his application for assistance or have been born within the State during the year, his mother having resided in the State 1 year before his birth.⁵⁰⁶ The first dependent child may receive \$20, the second child \$18, and each additional child \$12 a month.⁵⁰⁷ A destitute child (needy but not a public ward)⁵⁰⁸ may receive as much as \$23 a month,⁵⁰⁹

⁴⁹⁹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1204; Baldwin, 1937 suppl., 14078-35.

⁵⁰⁰ Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1203; Baldwin, 1941 suppl., 14078-34.

⁵⁰¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1201, 52-1221; Baldwin, 1937 suppl., 14078-1, 14078-52.

⁵⁰² Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1225, 52-1227; Baldwin, 1937 suppl., 14078-56, 14078-53.

⁵⁰³ Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1223; Baldwin, 1941 suppl., 14078-54.

⁵⁰⁴ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1236; Baldwin, 1937 suppl., 14078-67.

⁵⁰⁵ Acts 1863; Burns 22-601 *et seq.*; Baldwin 4360 *et seq.*

⁵⁰⁶ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1240, 52-1268; Baldwin, 1937 suppl., 14078-71, 14078-97b.

⁵⁰⁷ Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1241; Baldwin, 1941 suppl., 14078-72.

⁵⁰⁸ Acts 1937; Burns, 1941 suppl., 52-1267; Baldwin, 1937 suppl., 14078-97a.

⁵⁰⁹ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1269; Baldwin, 1937 suppl., 14078-

and is eligible for any other relief he may require.^{§ 10} Crippled children may be placed in any public or private hospital or be sent to the Riley Hospital at Indianapolis.^{§ 11} Diseased and defective children may be placed in a public hospital by the county department or the judge of the circuit court.^{§ 12} Orphan, dependent, and neglected children under 16 years of age are placed in private homes under the supervision of the county department of public welfare.^{§ 13}

No official, in carrying out the provisions of the Welfare Act, may take charge of a child over the objection of a parent or a person standing in loco parentis to the child, except pursuant to a court order.^{§ 14} Persons receiving aid under the Welfare Act are ineligible for other public relief.^{§ 15} Assistance is not transferable, is not subject to legal process, and is not an asset in bankruptcy or insolvency proceedings.^{§ 16}

When a recipient of welfare assistance moves to another county in the State with the approval of the State Department, there is no suspension of his assistance. The county to which a blind person moves is responsible immediately for the payment of his assistance. In case of the removal of a child or aged person, the county from which he moves is responsible for 1 year and then the other county becomes responsible.^{§ 17}

If an aged or blind person entitled to assistance under the Welfare Act is unable to care for himself, the county

§ 10 Acts 1906 (Spec. Sess.): Burns, 1941 suppl., 51-1078; Baldwin, 1937 suppl., 14075-97L.

§ 11 Acts 1906 (Spec. Sess.): Burns, 1941 suppl., 51-1079; Baldwin, 1941 suppl., 14075-77. Acts 1906 (Spec. Sess.): Burns, 1941 suppl., 51-1080; Baldwin, 1941 suppl., 14078-80.

§ 12 Acts 1906; Burns 51-501; Baldwin 1909. Acts 1906 (Spec. Sess.): Burns, 1941 suppl., 51-1041; Baldwin, 1941 suppl., 14075-77.

§ 13 Acts 1906 (Spec. Sess.): Burns, 1941 suppl., 51-1042 (c); Baldwin, 1941 suppl., 14075-5 (c). Information obtained from Thurman A. Gomack, chief administrator of the State Department of Public Welfare, on December 11, 1939, by W. Davis Hamilton.

Validity of regulations as to bringing nonresident children into the State for care by resident families. Op. Atty. Gen. 1914, p. 164.

§ 14 Acts 1906 (Spec. Sess.): Burns, 1941 suppl., 51-1077; Baldwin, 1937 suppl., 14075-76.

§ 15 Acts 1906 (Spec. Sess.): Burns, 1941 suppl., 51-1076; Baldwin, 1937 suppl., 14075-33, 14075-53.

§ 16 Acts 1906 (Spec. Sess.): Burns, 1941 suppl., 51-1075; Baldwin, 1937 suppl., 14075-41, 14075-62.

§ 17 Acts 1906 (Spec. Sess.): Burns, 1941 suppl., 51-1076; Baldwin, 1937 suppl., 14075-49, 14075-70, 14075-79.

department pays his relief money to some responsible person for his benefit.⁵¹⁸ If a blind or aged recipient of assistance dies leaving an estate insufficient to bury him, and the persons legally responsible for his burial are unable to pay the expenses, the county department pays \$75 for his funeral, plus an additional \$25 for a burial lot (if the deceased did not own one).⁵¹⁹

An appeal may be taken from the county department to the State Department of Public Welfare.⁵²⁰ Nothing in the Welfare Act relieves any person from liability for the support of a parent, child, or spouse.⁵²¹

The county maintains an asylum for the poor, which is separate from the welfare department.⁵²² Pauper residents of the county may be placed therein by township trustees.⁵²³ Nonresident paupers may be kept there temporarily.⁵²⁴ The law provides that children between the ages of 3 and 17 shall not be kept in the asylum for a period longer than 60 days.⁵²⁵

Township poor relief is administered by each township trustee.⁵²⁶ He may require able-bodied indigents receiving assistance to do needed governmental work.⁵²⁷ Anyone refused relief by a township trustee has a right to a hearing before the board of commissioners⁵²⁸ and to an appeal from

⁵¹⁸ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1208, 52-1229; Baldwin, 1937 suppl., 14078-39, 14078-60.

⁵¹⁹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1209, 52-1230; Baldwin, 1937 suppl., 14078-40, 14078-61.

Burial of inmates of county infirmary. Op. Atty. Gen. 1939, p. 179.

⁵²⁰ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1211, 52-1232, 52-1246; Baldwin, 1937 suppl., 14078-42, 14078-63, 14078-77.

⁵²¹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

Parent's duty to support child. Huff v. Merchants Parcel Delivery Co., 106 Ind. App. 110, 18 N. E. (2d) 471 (1939).

⁵²² Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1941 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

⁵²³ 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1941 suppl., 52-146, 52-151; Baldwin, 1935 suppl., 13320-3, 13320-8.

⁵²⁴ Acts 1935; Burns, 1941 suppl., 52-163; Baldwin, 1935 suppl., 13320-20.

⁵²⁵ Acts 1897, 1901; Burns 22-2608; Baldwin 4368.

⁵²⁶ Acts 1935, 1939; Burns, 1941 suppl., 52-144 to 52-182a; Baldwin, 1935 suppl., 13320-1 to 13320-38, 13359-11, 13359-12; Baldwin, 1939 suppl., 13320-4, 13320-13. Acts 1937; Burns, 1941 suppl., 52-183 to 52-194; Baldwin, 1937 suppl., 13321-1 to 13321-11, 13320-39. Op. Atty. Gen. 1940, p. 46.

⁵²⁷ Acts 1935, 1941; Burns, 1941 suppl., 52-152; Baldwin, 1941 suppl., 13320-9.

⁵²⁸ Acts 1935; Burns, 1941 suppl., 52-160; Baldwin, 1935 suppl., 13320-17.

that board to the circuit court.⁵²⁹ The board of commissioners may borrow for township poor relief, if the funds available are not sufficient. The township funds are used for paying these loans.⁵³⁰

PUBLIC WORKS AND PROPERTY

The board of commissioners has power to make orders respecting the property of the county in conformity to law; to sell the public grounds of the county on which public buildings are situated, and to purchase in lieu thereof, in the name of the county, other grounds in the county seat on which such buildings shall be erected; to purchase other lands for the enlargement of the public square, and to take care of and preserve such property; and to grant licenses, permits, or franchises with respect to the use of the property of the county.⁵³¹ No sale, conveyance, or purchase, by the board, of real estate of the value of \$1,000 or more can take place except pursuant to ordinance of the county council authorizing such sale or purchase and fixing the terms and conditions thereof.⁵³² The board cannot sell county property, real or personal, except at public auction after 60 days' notice by publication and posting.⁵³³

ROADS AND BRIDGES

The board of commissioners has power to construct and maintain roads⁵³⁴ and bridges.⁵³⁵ Generally the preliminary procedure for such construction is as follows: Taxpayers file with the board of commissioners a petition requesting

⁵²⁹ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5276.

⁵³⁰ Acts 1935, 1939; Burns, 1941 suppl., 52-804, 52-609, 52-610; Baldwin, 1935 suppl., 13359-1, 13359-6; Baldwin 1939 suppl., 13359-7.

⁵³¹ 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236.

⁵³² Acts 1899; Burns 26-534; Baldwin 5389.

⁵³³ Acts 1907; Burns 26-2008; Baldwin 5107.

⁵³⁴ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1923; Burns 36-1001; Baldwin 9020. Acts 1905; Burns 36-1301 *et seq.*; Baldwin 8787 *et seq.* Acts 1921; Burns 36-1401 *et seq.*; Baldwin 8204 *et seq.*

Budget estimates. Bateman v. State, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

⁵³⁵ Acts 1905, 1907, 1929; Burns 36-1901; Baldwin 9276. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903, 1923; Burns 36-2002; Baldwin 9192. Acts 1920; Burns 35-2401 *et seq.*; Baldwin 9151 *et seq.*

the improvement; notice of hearing before the board is published; taxpayers opposing the petition file remonstrances; viewers appointed by the board make inspection and recommendations; damages to landowners are determined; the petition is finally approved; a contract for the work is let; and the damages are paid.⁵³⁶ In some instances, bonds may be issued for the construction of roads⁵³⁷ and bridges,⁵³⁸ and special assessment liens charged against the land benefited by the road.⁵³⁹

State highways are those roads which have been officially designated as State highways by the State Highway Commission with the approval of the Governor. State highways and the bridges thereon are constructed, reconstructed, and maintained with State and Federal funds under the supervision of the State Highway Commission. Roads not so designated as State highways, and those so designated and thereafter abandoned by the State, are known as county roads. County roads and the bridges thereon are constructed, reconstructed, and maintained with county funds.⁵⁴⁰ The county may render financial assistance to the State Highway Commission in the construction or maintenance of any State highway or bridge

⁵³⁶ See the citations in the two preceding footnotes.

⁵³⁷ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1435 to 36-1443; Baldwin 8938 to 8946. Acts 1937; Burns, 1941 suppl., 36-332; Baldwin, 1937 suppl., 8859-1.

⁵³⁸ Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152. Acts 1927; Burns 36-2421; Baldwin 9171. Acts 1929, 1937; Burns, 1941 suppl., 36-2432; Baldwin, 1937 suppl., 9182. Acts 1927; Burns 36-2441; Baldwin 9128.

⁵³⁹ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

⁵⁴⁰ Acts 1917, ch. 87, secs. 5, 6, 9, 12, 27, 31. Acts 1919, ch. 53, secs. 12, 16, 23, 31. Acts 1933, 1935; Burns, 1941 suppl., 36-107, 36-117, 36-127; Baldwin, 1935 suppl., 8647, 8656, 8665. Acts 1933; Burns 36-110, 36-125, 36-1102; Baldwin 8649, 8663, 8700. Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1941 suppl., 36-2804, 36-2806; Baldwin, 1939 suppl., 8695-4, 8695-6. Acts 1937; Burns, 1941 suppl., 36-2912, 36-2913, 36-2920, 36-2921; Baldwin, 1937 suppl., 8696-11, 8696-12, 8696-19, 8696-20. Acts 1939; Burns, 1941 suppl., 36-3013; Baldwin, 1939 suppl., 9175-13.

Township roads transferred to county road system. Acts 1932 (Spec. Sess.), 1933; Burns 36-901 to 36-904; Baldwin 8711 to 8714.

Law transferring township roads to county road system authorized the county to pay previous obligations of townships on such roads, but did not require much payment. Board of County Comrs. v. Farmers State Bank of Eaton, 104 Ind. App. 692, 10 N. E. (2d) 769 (1937).

Private road becoming a public road after public use for 20 years. Acts 1905; Burns 36-1807; Baldwin 8770. Switzer v. Armantrout, 106 Ind. App. 468, 19 N. E. (2d) 858 (1939).

located wholly within the county, and any bridge (on such highway) over a stream forming the county boundary.⁵⁴¹

Expenses incurred in the maintenance of county roads may be paid only from funds received by the county from the motor vehicle highway account of the State, except that taxes may be levied for such purpose by the unanimous vote of the county council in case of extraordinary emergency or indispensable necessity.⁵⁴²

The county surveyor ordinarily prepares the plans and specifications for the construction of county roads and bridges, and has general supervision of such construction. If he is not a competent civil engineer, the board may appoint one to perform such duties.⁵⁴³

The county highway supervisor has general supervision of the maintenance and repair of all county roads, bridges, and culverts.⁵⁴⁴ He makes maps of all county roads, and gives each road a name or number, so that the roads may be efficiently patrolled for making repairs.⁵⁴⁵ Between January 1 and April 1 each year the highway supervisor is required to examine hedge fences and other obstructions of view near county roads, and to cause the trimming or removal of any such obstructions which violate the laws.⁵⁴⁶ Weeds must be cut and removed from the rights-of-way of county roads each year between June 15 and September 1.⁵⁴⁷

The board of commissioners has power to make suitable rules and regulations covering traffic on county roads, and to take steps necessary to enforce the rules. If such road is on a county line, the board of commissioners of the respective counties, in joint session, may make and enforce the rules.⁵⁴⁸ The county surveyor or county highway supervisor may fix the limits of the loads for any road, bridge, or culvert maintained by the county.⁵⁴⁹

⁵⁴¹ Acts 1923, 1929; Burns 36-136 to 36-141; Baldwin 8672 to 8675, 8678, 8679.

⁵⁴² Acts 1932 (Spec. Sess.), ch. 16, sec. 5. Acts 1937, ch. 135, secs. 3, 6. Acts 1939, ch. 64, sec. 1. Acts 1941, ch. 168, secs. 3, 4, 8. Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

⁵⁴³ 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁵⁴⁴ Acts 1933; Burns 36-1102, 36-110; Baldwin 8700, 8708.

⁵⁴⁵ Acts 1933; Burns 36-1109; Baldwin 8707.

⁵⁴⁶ Acts 1891, 1921, 1933; Burns 30-301, 30-302; Baldwin 7647, 7648.

⁵⁴⁷ Acts 1939; Burns, 1941 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

⁵⁴⁸ Acts 1919; Burns 36-706; Baldwin 8899. Information obtained from T. A. Dicus, chairman of the State Highway Commission, on December 29, 1939, by W. Davis Hamilton.

⁵⁴⁹ Acts 1933; Burns 36-1102, 36-110; Baldwin 8700, 8708. Information obtained from T. A. Dicus, chairman of the State Highway Commission, on December 29, 1939, by W. Davis Hamilton.

PUBLIC BUILDINGS

The law provides that the board of commissioners must cause a courthouse, jail, and public offices for the clerk, recorder, treasurer, and auditor to be erected and furnished, where this has not been done; and must keep all the public buildings of the county in repair; and that such offices must be fireproof, if practicable.⁵⁵⁰

For the purpose of acquiring a new courthouse, the board, without appraisement and without authority from the county council, may sell to the State any lands of the county containing public buildings, and buy other land for courthouse grounds. The proceeds of sale can be used only for the purchase of the land and construction of the courthouse. Additional funds for such purpose may be raised by issuing bonds or notes.⁵⁵¹

If the courthouse or jail is wholly or partly destroyed by fire or windstorm, it may be reconstructed or repaired by the board; bonds may be issued therefor; and a tax may be levied to retire the bonds.⁵⁵²

County buildings not needed by the courts or for county business may be leased to the city or town in which such buildings are located for a term not exceeding 10 years in any one lease,⁵⁵³ or to private persons or corporations for a term not exceeding 5 years.⁵⁵⁴

The board may construct and maintain public halls, and provide a custodian, janitor, lights, and heat therefor; and may join with a city for such purpose, or sell such halls to a city or town.⁵⁵⁵ The board may erect soldiers' monuments,⁵⁵⁶ memorial buildings, auditoriums, and coliseums.⁵⁵⁷ A township schoolhouse may be used for certain public meetings, with the consent of the township trustee.⁵⁵⁸ A schoolhouse no longer used as such, because of the abandonment of the school or its consolidation with another school, may

⁵⁵⁰ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240.

⁵⁵¹ Acts 1917, 1920 (Spec. Sess.); Burns 26-2201 to 26-2210; Baldwin 5165 to 5174.

⁵⁵² Acts 1935; Burns, 1941 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

⁵⁵³ Acts 1909; Burns 26-1801 to 26-1804; Baldwin 5151 to 5154.

⁵⁵⁴ Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

⁵⁵⁵ Acts 1903, 1913; Burns 26-1901 to 26-1906; Baldwin 5146 to 5150, 5164.

⁵⁵⁶ Acts 1865, 1891; Burns 26-1701; Baldwin 5298.

⁵⁵⁷ Acts 1913; Burns 26-1707; Baldwin 5132.

⁵⁵⁸ Acts 1859; Burns 28-3307; Baldwin 6094. Acts 1913; Burns 28-3308 to 28-3311; Baldwin 6095 to 6098. Op. Atty. Gen. 1939, p. 172.

be reconstructed for use as a community house, on application of 51 percent of the resident freeholders of the school district.⁵⁵⁹

Contracts for construction of public buildings may be let by the board of commissioners in pursuance of appropriation by the county council,⁵⁶⁰ after plans and specifications adopted by the board have remained in the auditor's office 30 days open to public inspection, notice inviting bids has been published, and bids, affidavits, and bonds have been received from bidders.⁵⁶¹

DRAINAGE

Drainage districts and special assessment liens on the land in the benefited area, to pay for the drainage, may be established by the circuit court on petition of landowners, after being referred to the county surveyor and viewers appointed by the court.⁵⁶² The petition will be dismissed if owners of two-thirds of the affected land remonstrate within 20 days.⁵⁶³ If the original assessment is insufficient to complete the work, an additional assessment may be ordered after report of the surveyor, notice to the landowners, and hearing by the court.⁵⁶⁴ After assessments are adjusted and confirmed, they are placed on the ditch duplicate and collected in the manner in which taxes are collected.⁵⁶⁵

The county surveyor has general supervision of the construction and maintenance of all ditches, drains, and levees. He makes all necessary surveys, maps, plans, and specifications when a court grants petitions for construction.⁵⁶⁶

⁵⁵⁹ Acts 1839; Burns, 1941 suppl., 28-3320; Baldwin, 1939 suppl., 6195-1.

⁵⁶⁰ Acts 1899; Burns 26-525; Baldwin 5389.

⁵⁶¹ Acts 1899; Burns 26-537; Baldwin 5402. Acts 1907; Burns 26-2001 to 26-2005; Baldwin 5100 to 5104.

⁵⁶² Acts 1933; Burns 27-104, 27-109, 27-116, 27-134; Baldwin 5740, 5745, 5752, 5770. *Penn v. Ducomb*, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

⁵⁶³ Acts 1933; Burns 27-108; Baldwin 5744.

⁵⁶⁴ Acts 1933; Burns 27-122; Baldwin 5758.

⁵⁶⁵ Acts 1933; Burns 27-134; Baldwin 5770.

The circuit court has no power to collect these assessments as part of the proceedings for establishment of the drainage district. *Penn v. Ducomb*, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

Proceedings to collect drainage assessment liens cannot be commenced until 5 years after creation of lien. *Marshall v. Watkins*, 106 Ind. App. 235, 18 N. E. (2d) 954 (1939).

Effect of moratorium tax law. *Ibid*.

⁵⁶⁶ Acts 1933; Burns 27-101, 27-201; Baldwin 5737, 5775, 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

The law requires that open ditches be cleaned out and repaired biennially; that weeds, willows, and debris be removed therefrom annually; and that public tile drains be repaired whenever necessary.⁵⁶⁷

The board of commissioners may (by purchase, grants, donations, or eminent domain) acquire lands and rights necessary to obtain a right-of-way for drainage or easement for sewers, when necessary for the proper maintenance of any county building or institution.⁵⁶⁸

OTHER PUBLIC PROPERTY

The board of commissioners may, without petition, purchase or otherwise acquire lands within the county for park purposes and make the necessary improvements thereon.⁵⁶⁹ If 200 persons, who are taxpayers and voters, petition the board to acquire land for park purposes, the board gives 60 days' notice by publication and conducts a public hearing on the question. If 20 percent of the resident taxpayers file remonstrances on or before the day fixed for hearing, the petition will be dismissed.⁵⁷⁰ The board may acquire land to convey to the State for park purposes, on petition of 200 persons who are taxpayers and voters, after (a) publication of 30 days' notice, (b) public hearing, (c) consent of the Governor and the director of the State Department of Conservation, (d) fixing a tax levy, and (e) issuing bonds (if needed). The petition will be dismissed if 25 percent of the resident taxpayers file remonstrances before the date fixed for hearing.⁵⁷¹

The board of commissioners may acquire, by purchase or gift, any lands within the county for the purpose of a permanent public forest.⁵⁷² Purchase for such purpose may be made on petition signed by 50 or more freeholders of the county, after publication of notice, a public hearing, and fixing a tax levy to pay for the same. Money may be raised by bond issue or temporary loan.⁵⁷³ A gift of lands to the

⁵⁶⁷ Acts 1941, ch. 63, secs 1-3. Acts 1933, 1935, 1941; Burns, 1941 suppl., 27-203; Baldwin, 1941 suppl., 5777. Acts 1933, 1935; Burns, 1941 suppl., 27-210; Baldwin, 1935 suppl., 5784. Acts 1939; Burns, 1941 suppl., 27-233; Baldwin, 1939 suppl., 5494-9. Op. Atty. Gen. 1939, p. 292.

⁵⁶⁸ Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

⁵⁶⁹ Acts 1923, 1927; Burns 26-1501; Baldwin 5199.

⁵⁷⁰ Acts 1923; Burns 26-1503, 26-1504; Baldwin 5201, 5202.

⁵⁷¹ Acts 1927; Burns 26-1512 to 26-1516; Baldwin 5190 to 5194.

⁵⁷² Acts 1929; Burns 32-101; Baldwin 4875.

⁵⁷³ Acts 1929, 1935; Burns, 1941 suppl., 32-102; Baldwin, 1935 suppl., 4876.

county on condition that they be maintained as a public forest can be accepted only by a majority of the board of commissioners and county council in joint session.⁵⁷⁴ Any aggrieved taxpayer may appeal to the circuit court.⁵⁷⁵

Swamplands, saline lands, and meander lands, owned by the State, may be purchased by the county (acting through the board of commissioners) to be used for a public park or public forest, or both, on petition to the circuit court, appraisal of lands, and payment of value.⁵⁷⁶

The board may permit county lands within 1½ miles of a city or town to be used by such city or town for park purposes. Title to the land remains in the county.⁵⁷⁷

The board, on petition of a majority of the voters in the county, may purchase land to be used for fairgrounds,⁵⁷⁸ and thereafter sell such land or any part thereof, if it is no longer an eligible location for fairs.⁵⁷⁹

The county may, separately or in conjunction with another county or city, acquire, maintain, and dispose of airports and appurtenances thereto.⁵⁸⁰

Lands conveyed to the board of commissioners for the purpose of a public or private cemetery must be held by the board forever in trust for such purpose,⁵⁸¹ subject to the exceptions hereinafter stated. The board may convey any such public cemetery to any city or town within the vicinity thereof on application of such city or town,⁵⁸² and may convey any such public or private cemetery to a cemetery association on petition of a majority of the persons, being residents of the county and heads of families, whose dead are buried in the cemetery.⁵⁸³

AGRICULTURE

The Constitution provides that improvement of agriculture shall be encouraged.⁵⁸⁴ Allowances may be made out

⁵⁷⁴ Acts 1929; Burns 32-105; Baldwin 4879.

⁵⁷⁵ Acts 1929, 1935; Burns, 1941 suppl., 32-109; Baldwin, 1936 suppl., 488-1.

⁵⁷⁶ Acts 1929; Burns 62-217 to 62-225; Baldwin 15260 to 15268.

⁵⁷⁷ Acts 1911; Burns 26-1526 to 26-1531; Baldwin 5181 to 5186.

⁵⁷⁸ Acts 1873; Burns 26-1517, 26-1518; Baldwin 5330, 5331.

⁵⁷⁹ Acts 1873; Burns 26-1519; Baldwin 5332.

⁵⁸⁰ Acts 1920 (Spec. Sess.), 1921; Burns 14-301 to 14-306; Baldwin 4021, 7991, 4023 to 4026.

⁵⁸¹ 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600.

⁵⁸² Acts 1905; Burns 48-6003; Baldwin 12665.

⁵⁸³ Acts 1881 (Spec. Sess.); Burns 21-210, 21-211; Baldwin 4626, 4627.

⁵⁸⁴ Const. 1851, art. 8, sec. 1.

of the county's general fund to agricultural societies for the promotion of agricultural and horticultural interests.⁵⁸⁵

Marshall County has a county agricultural agent for the improvement of agriculture and rural life. The agricultural agent, under the supervision of Purdue University, cooperates with farmers' institutes, and farmers' clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys' club and contest work, and other movements for the advancement of agricultural and country life; gives advice to farmers on practical farm problems; and aids the superintendents of schools and the teachers of the county in giving practical education in agriculture and domestic science.⁵⁸⁶

RECORDS SYSTEM

The records of Marshall County began with its creation in 1836. The establishment of each of the county offices and bureaus inaugurated their records which were kept in such fashion as the incumbents saw fit, following in the main the directions of the General Assembly under the provisions for each office.

In 1909 the Legislature established the State Board of Accounts, which formulates, prescribes, and installs systems of accounting and financial reporting which are uniform for every public office of the same class.⁵⁸⁷ Under this law some of the records were combined to eliminate separation, duplication, and overlapping. The board also permits the use of bound loose-leaf records in almost all cases where the records are typed. The quality of the paper and ink and the binding and rebinding practices are left to the judgment of the board of commissioners, except that a good quality is required.⁵⁸⁸

An act of 1937 provides that the board of commissioners may provide for the installation of a modern tax-accounting

⁵⁸⁵ Acts 1877; Burns 15-314; Baldwin 5333.

⁵⁸⁶ U. S. C., title 7, secs. 341 to 343, 344 to 348 (law of 1914). Acts 1913, 1923, 1927, 1937; Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457. Acts 1931; Burns 28-5627; Baldwin 6475. See the essay entitled "County Agricultural Agent."

⁵⁸⁷ Acts 1909; Burns 60-202, 60-224; Baldwin 13855, 13875.

⁵⁸⁸ Information obtained from E. P. Brennan, State Examiner, on February 28, 1940, by W. Davis Hamilton.

system in the offices of the treasurer and auditor, after a description thereof has been approved by the board of commissioners and certified to, and approved by, the State Board of Accounts.⁵⁸⁹ No system has been established in Marshall County under authority of this law.⁵⁹⁰

The State Board of Health,⁵⁹¹ State Board of Education,⁵⁹² State Probation Department,⁵⁹³ State Department of Public Welfare,⁵⁹⁴ State Board of Tax Commissioners,⁵⁹⁵ and the agricultural extension department of Purdue University prescribe forms of records and reports for county boards and officials over whom they have supervision.⁵⁹⁶

Whenever it may be necessary for the preservation of the records of the circuit court or any county office, it is the duty of the board of commissioners to order the officer in charge of such records to copy and transcribe the same.⁵⁹⁷

In the event of the loss or destruction, in whole or in part, of any of the county records, they must be replaced as follows: (a) The board of commissioners must send to the Governor a certified list of such records furnished by the State, and he must order the proper State officer to replace them. (b) Records compiled in the county must be restored, if possible, from original documents by the county officer who had custody of the original records. (c) If impossible to duplicate the old records, new records must be made on evidence taken from parties having knowledge of the facts concerned, by the proper officer or by a commissioner appointed by the board of commissioners for that purpose.⁵⁹⁸

⁵⁸⁹ Acts 1937; Burns, 1941 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

⁵⁹⁰ Information obtained from E. P. Brennan, State Examiner, on January 21, 1940, by William E. Chambers.

⁵⁹¹ See the essay entitled "County Health Officer."

⁵⁹² See the essay entitled "County Superintendent of Schools."

⁵⁹³ See the essay entitled "County Probation Officer."

⁵⁹⁴ See the essay entitled "County Department of Public Welfare."

⁵⁹⁵ Acts 1919, 1921; Burns 64-1309; Baldwin 15713. Acts 1919; Burns 64-2803; Baldwin 15866.

⁵⁹⁶ See the essays entitled "County Agricultural Agent," and "Home Demonstration Agent."

⁵⁹⁷ Acts 1877; Burns 26-634; Baldwin 5339.

⁵⁹⁸ 2 Rev. Stat. 1852, Acts 1865; Burns 57-101 to 57-124; Baldwin 1168 to 1191. Acts 1881; Burns 57-203 to 57-210; Baldwin 1165 to 1167. Acts 1893; Burns 57-125, 57-211 to 57-214; Baldwin 1197, 1192 to 1195.

An act of 1925 permits county officials, at their discretion, to turn over to the Archives Division of the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books and material not in current use in their offices.⁵⁹⁹ County officials have only occasionally availed themselves of this provision for permanent preservation of their old records.

An act of 1927 provides that deeds, mortgages, and other instruments may be recorded by a photographic process adopted by the board of commissioners.⁶⁰⁰ The photographic method of recording has never been used generally by any Marshall County officer.

In 1937 the General Assembly authorized the director of the State Library, at his discretion, to make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office, for preservation in the State Archives. All public officials must permit such copies to be made.⁶⁰¹

In 1939 the Legislature created in each county a commission of public records, consisting of the judge of the circuit court, the president of the board of commissioners, the county auditor, and the clerk of the circuit court. The commission must classify county records on the following basis: (a) Public records no longer of official or historical value; (b) public records which are of current official value and should be retained in the office where they are required to be filed; (c) public records of official value but which are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed; and (d) public records having historical value but no apparent official value. Records of class (a), which occupy space to no purpose in the offices and storerooms of the county, must, 3 years from the time they were originally filed (unless a law requires that they be kept for a longer period of time), be destroyed or otherwise disposed of, unless a law prohibits their destruction and unless such records are then in frequent use by the officer having charge of the office in which they are located. Records of class (b) will be retained in the

⁵⁹⁹ Acts 1925, 1937; Burns, 1941 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶⁰⁰ Acts 1927; Burns 49-8207; Baldwin 14667.

⁶⁰¹ Acts 1925, 1937; Burns, 1941 suppl., 63-830; Baldwin, 1937 suppl., 10287.

office in which they were required to be filed. Records of classes (c) and (d) must be transferred to the State Library 3 years after the date of the filing of such records, unless they are then in frequent use by the officer in charge of the office where they are located. In the event of such transfer, the records of class (c) will be added to the "archives" of the Library while those of class (d) will constitute a part of the "collection" of such Library.⁶⁰²

An act of 1935 created, in the executive department of the State, a "Commission on Public Records," consisting of the Governor, Secretary of State, State Examiner, director of the State Library, and director of the Historical Bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except as to the provisions concerning the personnel of the commission.⁶⁰³

It is provided by law that whoever, being an officer or his deputy, having the custody of any record, book, document, paper, or proceeding pertaining to or filed with any court of record or county office or officer, feloniously steals or fraudulently takes away, secretes, withdraws, or destroys the same shall on conviction be imprisoned in the State Prison not less than 2 years nor more than 14 years, fined not exceeding \$1,000, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period;⁶⁰⁴ that whoever maliciously, mischievously, or fraudulently alters, defaces, injures, mutilates, or destroys the whole or any part of such record or document shall on conviction be imprisoned in the State Prison not less than 6 months nor more than 14 years, fined not exceeding \$1,000, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period;⁶⁰⁵ that any public official or person who destroys any public record without specific written authority from the commission of public records shall on conviction be fined not less than \$10 nor more than \$500;⁶⁰⁶ and that any county recorder who

⁶⁰² Acts 1939; Burns, 1941 suppl., 49-3701 to 49-3710; Baldwin, 1939 suppl., 5492-1 to 5492

10. See the essay entitled "Commission of Public Records."

⁶⁰³ Acts 1935; Burns, 1941 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10. Op. Atty. Gen. 1939, p. 259.

⁶⁰⁴ Acts 1905; Burns 10-3001, 10-3005; Baldwin 2459, 2460.

⁶⁰⁵ Acts 1905; Burns 10-4514; Baldwin 2461.

⁶⁰⁶ Acts 1939; Burns, 1941 suppl., 49-3708, 49-3710; Baldwin, 1939 suppl., 5492-8, 5492-10

violates the law requiring immediate entry of certain satisfactions, cancelations, and assignments in his entry book shall be subject to a penalty of \$5 for each such violation, to be recovered in a civil action brought by the prosecuting attorney.⁶⁰⁷

3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

The first Marshall County courthouse was erected in Plymouth in 1836 immediately after the organization of the county.¹ Built of burroak timbers 12" square and 15' long, and covered with a roof of "shakes", the one-story structure was financed through the donations of various citizens interested in the welfare and organization of the county.² Court and county business was conducted in the building until the latter part of 1840, when the second courthouse was completed.³

Prior to the abandonment of the first courthouse a contract for the second was awarded on May 8, 1840, to Levi C. Barber on his bid of \$5,000.⁴ The building, a two-story frame structure 50 by 80 feet in size, was a colonial type, with a cupola arising above the center of the second floor. The first floor was divided into county offices, each approximately 14' by 16', and the entire second floor was used for court purposes.⁵ Apparently the workmanship of this second building was poor, as repairs were frequently made, and on August 25, 1870 the commissioners awarded a contract for the present courthouse to Epperson and Favorite of Lafayette on their bid of \$105,000.⁶

The present courthouse, a brick and stone structure at the corner of Center and Jefferson Streets, Plymouth, is approximately 100' long, 60' wide, and 40' high. It contains a basement, two stories above ground, and a clock tower rising above the center of the second floor. No other information is available concerning the original construction of

⁶⁰⁷ Acts 1805; Burns 49-3203, 49-3204; Baldwin 5472, 5473.

¹ Commissioners' Record, vol. A, p. 20, *see* entry 2.

² *Ibid.*, p. 21.

³ *Ibid.*, vol. C, p. 346.

⁴ *Ibid.*, p. 345.

⁵ *Ibid.*, p. 320.

⁶ *Ibid.*, vol. G, p. 255.

the present building, but in 1914 at a cost of \$65,000, the walls of the offices were frescoed, new furniture and shelves were constructed, and the exterior of the building was painted. The building is approximately 75 percent fireproof and facilities for public use are good. Fireproof vaults contain approximately 80 percent of the records.

A contract for the construction of the county's first jail was awarded in 1837 to Oliver Rose and James Currier on their bid of \$399.⁷ The building, a two-story structure 16 by 20 feet in size, was constructed of hewn oak logs 12" square, and topped with a shingle roof. In one corner of the second floor a trap door permitted the lowering of prisoners into what was called "the bottomless pit", a dungeon for criminal offenders.⁸ Although crudely constructed, this jail was used until 1849, one year after the commissioners had advertised in the *South Bend St. Joseph Valley Register* the awarding of a contract for construction of a second jail.⁹

At the end of the time advertised for receiving bids, the commissioners awarded the contract for the second jail to Albert Bass on his bid of \$2,380, after reducing it by \$200. Bass contended that the commissioners had erred in the specifications placed in the auditor's office,¹⁰ and evidently the new jail was poorly constructed and unable to hold an expert criminal, for after numerous escapes, a contract for the present jail was awarded in 1879 to William Myers of Fort Wayne, for the amount of \$16,970.

The present jail, at 601 N. Center Street, Plymouth, is of brick and stone construction, and measures 40 by 80 feet. Several alterations have been made since its construction, and the facilities for care of prisoners are good.

A room-by-room description of the present housing of county records follows:

Board of Commissioners. The board of commissioners' room, 27' by 16' by 9', is in the southwest corner of the basement. Eleven percent of the records are in book room 1, approximately 50 percent are in the auditor's vault, 37 percent are in the auditor's office, and 2 percent are in the surveyor's office, 3 volumes are in book room 2, and 1 file box in the treasurer's vault.

⁷ *Ibid.*, vol. A, p. 121.

⁸ *Ibid.*, p. 122.

⁹ *Ibid.*, vol. C, p. 345.

¹⁰ *Ibid.*, p. 371.

County Council. All records are in the auditor's office.

Clerk of the Circuit Court. The clerk's office, 39' by 28' by 15', is in the southeast corner of the first floor. One hundred and fifty-four feet of shelving in the clerk's office contains 735' of unbound records, or approximately 35 percent of all the clerk's records. Twenty-seven percent are in book room 1, 38 percent are in the clerk's vault, 18' by 5½' by 15', adjoining the clerk's office on the northwest, and 1 volume is in the auditor's vault.

Recorder. The recorder's office, 39' by 18' by 15', is in the northeast corner of the first floor. Along the west wall 192' of shelving contains 168' of bound volumes and 57' of unbound records, or 17 percent of the recorder's records. Northwest of the recorder's office is the recorder's vault, 14' by 8' by 9', containing 423' of bound volumes, or 30 percent of the records. Thirteen percent of the records are in book room 3, and 40 percent in book room 1.

Circuit Court. Forty-two percent of the records are in the clerk's office, 44 percent in the clerk's vault, and 14 percent in book room 1.

Court of Common Pleas. Seventy-three percent of the records are in book room 1, and 27 percent in the clerk's vault.

Sheriff. The sheriff's office, 14' by 12' by 15', is on the west side of the second floor, and contains 9' of bound and 3' of unbound records, or 80 percent of the sheriff's records. Fourteen percent are in book room 1, and 6 percent in the office of the jail.

Prosecuting Attorney. All records are in the prosecutor's office on the first floor of the State Bank Building, Plymouth.

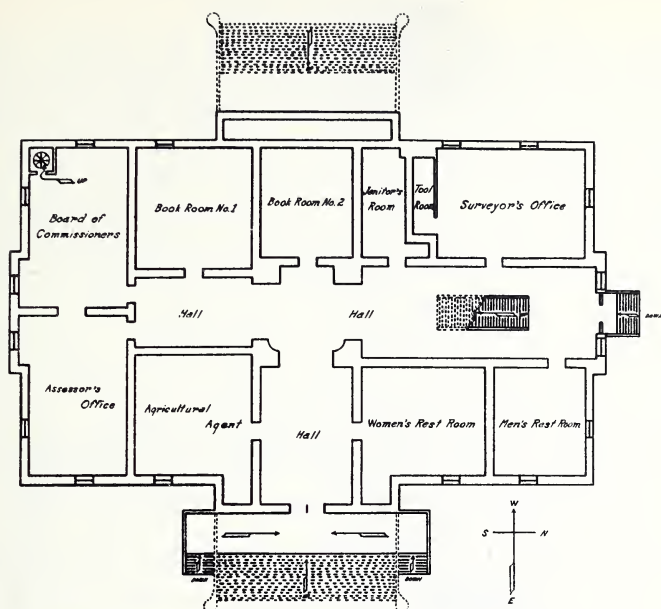
Assessor. The assessor's office, 27' by 16' by 9', is in the southeast corner of the basement. Two hundred and thirty-three feet of shelving contains 160' of bound and 1' of unbound records, or approximately 67 percent of the assessor's records. Thirty-three percent are in book room 2.

County Board of Review. Approximately 67 percent of the Board of Review records are in the auditor's office, and approximately 33 percent are in the auditor's vault.

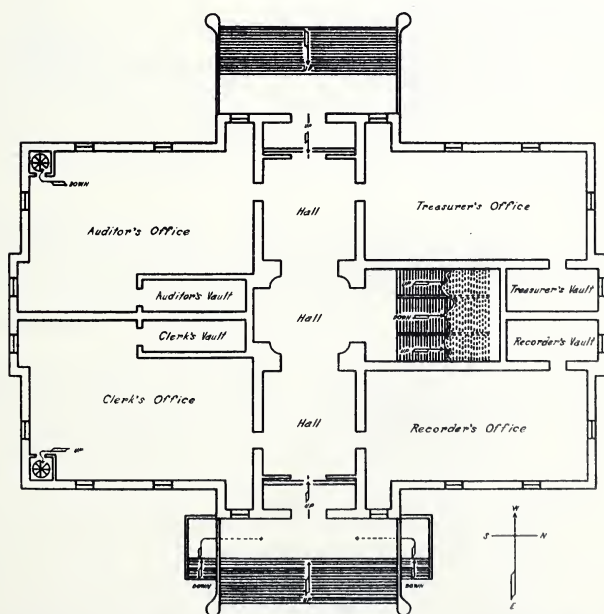
County Board of Tax Adjustment. All records are in book room 1.

Board of Finance. All records are in the auditor's office.

Treasurer. The treasurer's office, 39' by 18' by 15', is in the northwest corner of the first floor, and contains 66' of shelving holding approximately 15 percent of the records. Adjoining the treasurer's office is the treasurer's vault, 14' by 7' by 9', which contains approximately 8 percent of



BASEMENT, MARSHALL COUNTY COURTHOUSE



FIRST FLOOR, MARSHALL COUNTY COURTHOUSE

the records. Forty-one percent are in the attic book room, 36 percent are in book room 1, 5 volumes are in the auditor's office, and 1 volume is in book room 2.

Auditor. The auditor's office, 39' by 28' by 15', is in the southwest corner of the first floor, where 321' of shelving holds 197' of bound and 667' of unbound records, or 7 percent of the auditor's records. Adjoining the auditor's office on the northeast is the auditor's vault, 18' by 5½' by 15', containing 26 percent of the records. Thirteen percent of the records are in the assessor's office, 9 percent in book room 1, and 45 percent in book room 2.

Registration Officer. Approximately nine percent of the registration officer's records are in the clerk's office, 91 percent are in book room 2, 1 bundle is in the clerk's vault, and 1 volume is in book room 1.

Board of Primary Election Commissioners, County Board of Canvassers, County Board of Election Commissioners. Thirty-seven percent of the records are in the clerk's vault, 25 percent in the sheriff's office, and approximately 38 percent are in book room 1.

County Board of Education. All records are in the superintendent of schools' office.

County Superintendent of Schools. The superintendent's office, 26' by 19' by 15', is in the northwest corner of the second floor. Eighty-three feet of bound and 32' of unbound records are housed in file boxes in the superintendent's office which contain 97 percent of the records. Three percent are housed in book room 2.

County Health Officer. All records of the county health officer are in the health officer's office at 305 Michigan Street, Plymouth.

Public Health Nurse. All records are in the health nurse's office, 222½ N. Center Street, Plymouth.

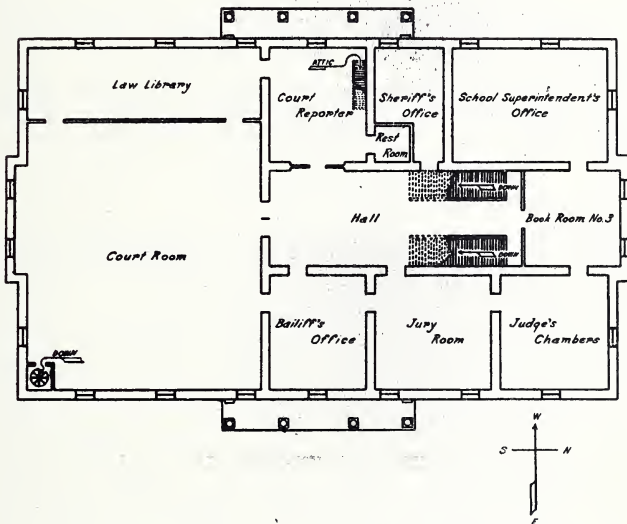
County Department of Public Welfare. Eighty-eight percent of the welfare department's records are in the department's office, 222½ N. Center Street, Plymouth, and 12 percent are in the auditor's office.

Board of Children's Guardians. All records are in the county department of public welfare office.

Surveyor. The surveyor's office, 24' by 18' by 9', is in the northwest corner of the basement. Twelve feet of shelving containing 9' of bound and 37' of unbound records house 60 percent of the records. One percent is in the auditor's office, approximately 39 percent are in book room 1, 1 volume is in the auditor's vault, and 6 maps in the clerk's vault.

County Highway Supervisor. The supervisor's office is in the highway garage, East Jefferson Street road, Plymouth. Twenty-six percent of the records are in the supervisor's office, 20 percent in book room 1, and 54 percent in the auditor's vault.

County Agricultural Agent. The agricultural agent's office, 21' by 20' by 9', is on the east side of the basement. Eighty-four feet of shelving contain all of the agricultural agent's records.



SECOND FLOOR, MARSHALL COUNTY COURTHOUSE

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5. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

The Style Manual of the United States Government Printing Office is the authority followed herein.

Acts	Session laws of the Indiana General Assembly
agr. agt.	agricultural agent('s)
alph.	alphabetical(ly)
approx.	approximate(ly)
arr.	arranged
art.	article
assr.	assessor('s)

aud.	auditor('s)
bd.	board
bdl.(s)	bundle(s)
Blackf.	<i>Blackford's Reports</i> (early decisions of the Indiana Supreme Court)
bldg.	building
bsmt.	basement
c.	copyright (before date)
C. C.	County Courthouse
cf.	compare
ch.	chapter
chron.	chronological(ly)
cir. ct.	circuit court
clk.	clerk('s)
comp.(s)	compiler(s)
comr.	commissioner('s)
Const.	Constitution of Indiana
cor.	coroner
ct. rept.	court reporter
diam.	diameter
ed.(s)	editor(s)
<i>et al.</i>	<i>et alii</i> (and others)
<i>et seq.</i>	<i>et sequentia</i> (and following)
ex rel.	<i>ex relatione</i> —upon relation of. (Designates the person at whose instance the State or a public officer is acting)
f. b.	file box(es)
f. d.	file drawer(s)
fl.	floor
hdw.	handwritten
hlth. offr.	health officer('s)
hwy. sup.	highway supervisor('s)
<i>ibid.</i>	<i>ibidem</i> (in the same place)
Ind.	Indiana (when preceded by the volume number, reference is to official reports of decisions of the Indiana Supreme Court)
Ind. App.	official reports of decisions of Indiana Appellate Court
insp.	inspector
juv.	juvenile
L. Ed.	decisions of U. S. Supreme Court published by Lawyers Co-operative Publishing Co.
lb.(s)	pound(s)

<i>loc. cit.</i>	<i>loco citato</i> (in the place cited)
n.	note
n. d.	no date
N. E.	<i>North Eastern Reporter</i>
N. E.(2d)	<i>North Eastern Reporter</i> , second series
no.(s)	number(s)
numer.	numerically
off.	office
offr.	officer
Op. Atty. Gen.	opinions of the Attorney General of Indiana
<i>op. cit.</i>	<i>opere citato</i> (in the work cited). (After author's name, refers to previous work cited under his name)
p., pp.	page(s)
<i>passim</i>	here and there (referring to references too numerous to enumerate)
<i>pro tem</i>	<i>pro tempore</i>
pros. atty.	prosecuting attorney('s)
pt.	part
ptd.	printed
pub. welf.	public welfare
pvt.	private
rec.	record
recr.	recorder('s)
reg.	register
Rev. L.	<i>Revised Laws of the State of Indiana</i>
Rev. Stat.	<i>Revised Statutes of the State of Indiana</i>
sec.(s)	section(s)
sher.	sheriff('s)
<i>sic</i>	thus (indicating expression, misspelling, etc., is the same as in the original)
(Spec. Sess.)	Special Session
sta.	station
strg.	storage
sub-bsmt.	sub-basement
suppl.	supplement
Sup. Ct.	decisions of U. S. Supreme Court published by West Publishing Co.
super. ct.	superior court
supt.	superintendent('s)
surv.	surveyor('s)
treas.	treasurer('s)
t. (tps.)	township(s)

U. S.	United States (when preceded by volume number, reference is to official reports of U. S. Supreme Court)
U. S. C.	<i>United States Code</i>
U. S. Stat.	<i>U. S. Statutes At Large</i>
v.	versus
vol.(s)	volume(s)
vt.	vault
Yr. Bk.	<i>Year Book of the State of Indiana</i>
'	foot, feet
"	inch(es) omitted after dimensions in entries)
x	by, (in dimensions)
—	to date and continuing

EXPLANATORY NOTES

The inventory of the records of each branch of the county government is preceded by an essay explaining its legal status and functions.

In some instances, records shown as being legally required do not appear in the inventory. Such omissions reflect the record situation and are not the result of an inadequate survey.

Entries are grouped according to a functional classification, with headings and subheadings according to relative functions and with cross-references to allied subjects. Every entry has two parts or paragraphs: Title and description. Occasionally an entry has a third (cross-reference) paragraph.

I. The title paragraph consists of:

Entry number. The entries are numbered consecutively.

Exact title (in capitals and small capitals) as it appears on the records. Titles enclosed in brackets are supplied by the Indiana Historical Records Survey, if the volume or file bears no title. Supplementary titles (in capitals and lower-case letters), enclosed in brackets, are also supplied where it is necessary to explain the types of records more fully, or where the exact title borne by the record is incorrect, misleading, or nondescriptive.

Dates of the period covered by the record, showing inclusive beginning and ending dates, except when a dash in place of an ending date denotes an open record. Missing records are indicated by a break in the dates. In entries, where one or more records are replaced by another record, the

month and day are given for the discontinued record. In entries of open records, when the last entry is not current, a note follows: "Last entry"—with date following. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior or subsequent records, no definite information could be obtained.

Quantity and labeling, given in chronological order wherever possible.

Variations in title. Current or most recent title used as entry title; if former titles vary, they are shown.

Changes in keeping records. Occasionally the county record is discontinued or is kept by some other authority—State or other county office; if changes in keeping records have been made, such changes are indicated and information is given to show by what authority the record is now kept.

II. The description consists of:

A statement of the nature, contents, and purpose of the record, with a summary of the column headings or subjects treated. The current record, except as otherwise noted, is described. The contents over a long period of years may themselves vary; therefore, over the entire period the description may vary to some degree. In the description of map and plat records, the scale and the names of author and publisher are given whenever available. No mention thereof denotes that these data are not known.

Method of arrangement: Chronological, topical, or other system.

Method of indexing, pertaining to self-contained indexes. Separate indexes are noted also, with a cross-reference thereto.

Nature of recording: Records are shown as handwritten, typewritten, or printed; maps and plats are shown as drawn, blueprinted, or printed.

Condition. Omitted if good or excellent.

Number of pages averaged for a series.

Size of volumes in the order of height, width, and thickness, averaged for a series; of file boxes and file drawers, in the order of height, width, and depth. It is given in inches in all instances; hence the inch sign is omitted.

Location. The place of custody (the room in which the records are located) is in the courthouse unless another building is specified in the entry. The locations given are those effective at the time the survey was made.

III. Cross-references:

Title-line cross-references are used to show continuity of a record series which has been kept separately for a period and with other records for different periods of time. An example is that in the title-line of entry 22: "1880-90, 1908-in Commissioners' Ditch Record, entry 19." They are also used in all artificial entries, those set up to cover records which must be shown separately under their proper office even though they are kept in files, or records appearing elsewhere in the inventory, as, for example, the title-line cross-reference in entry 347: "In Election Records, entry 351." In both instances the description of the master entry or entry of miscellaneous contents shows the title and number of the entry in which the record is described (the entry from which the title-line cross-reference is made), as, for example, in entry 351: "Also contains: [Election Record Primary] 1916-, entry 347." Dates shown in such a cross-reference are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

Separate third-paragraph cross-references from entry to entry, and *See also* references with subject headings or sub-headings are used to guide the reader to prior, subsequent, or related records which are not parts of the same series.

In the footnotes of essays the chapter and section numbers of the *Laws of the State of Indiana* (cited as Acts) are omitted when parallel Burns and Baldwin section numbers are cited; only the year of the law cited is given, as, for example, "Acts 1919; Burns 36-706; Baldwin 8899." The history lines for both Burns and Baldwin sections give the full citations. This method has been found necessary to prevent the footnotes from becoming unwieldy and occupying too much space on each page of the multigraphed volume.

PART B. COUNTY OFFICES AND THEIR RECORDS

I. BOARD OF COMMISSIONERS

EVOLUTION AND STRUCTURAL ORGANIZATION

The board of commissioners, which has existed in Marshall County ever since 1836 is composed of three members¹ elected for 3-year terms commencing on January 1 in different years.² The county is divided into three districts; and one commissioner is elected from the residents of each district by the voters of the whole county.³ Each member receives a certificate of election from the clerk of the circuit court⁴ and remains in office until his successor has been elected and qualified.⁵

Each commissioner must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;⁶ must reside within the county after his election; must not hold any other lucrative office;⁷ and must take an oath to support the State and Federal Constitutions and faithfully discharge his duties.⁸ Each member

¹ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215. See footnote 22 herein.

County commissioners are not constitutional officers. State ex rel. Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133 (1909).

² Rev. L. 1831, ch. 20, sec. 2. Rev. Stat. 1838, ch. 21, sec. 2. Rev. Stat. 1843, ch. 4, sec. 11. Acts 1901, ch. 182, sec. 1 (repealed by Acts 1929, ch. 59, sec. 2). 1 Rev. Stat. 1852; Burns 26-603; Baldwin 5217. Acts 1885; Burns 26-604; Baldwin 5218. Acts 1929; Burns 49-207; Baldwin 5566.

³ Rev. L. 1831, ch. 20, sec. 11. Rev. Stat. 1838, ch. 21, sec. 11. Rev. Stat. 1843, ch. 7, sec. 13. 1 Rev. Stat. 1852; Burns 26-602; Baldwin 5216.

⁴ Const. 1851, art. 15, sec. 6. Rev. L. 1824, ch. 16, sec. 3. Rev. Stat. 1843, ch. 7, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 38. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

The members are not commissioned by the Governor. *Ibid.*

⁵ Const. 1851, art. 15, sec. 3. Rev. L. 1831, ch. 20, sec. 2. Rev. Stat. 1838, ch. 21, sec. 2. Rev. Stat. 1843, ch. 4, sec. 11. 1 Rev. Stat. 1852, ch. 20, sec. 3. Acts 1885; Burns 26-604; Baldwin 5218.

⁶ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁷ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁸ Const. 1851, art. 15, sec. 4. Rev. L. 1831, ch. 20, sec. 3. Rev. Stat. 1838, ch. 21, sec. 3. Rev. Stat. 1843, ch. 7, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852, Burns 26-605, 49-201; Baldwin 5219, 13054.

receives a regular salary of \$300 per year,⁹ plus 6 cents for each mile necessarily traveled by him in the conduct of county business.¹⁰

For sufficient legal causes any county commissioner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹¹ If a commissioner is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy in the office of county commissioner is filled at any time through appointment by the commissioners in office. In the event of a tie vote the auditor casts the deciding vote.¹³

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Marshall." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.¹⁴ In legal contemplation the board is the county.¹⁵

A regular session of the board of commissioners begins on the first Monday of each month and continues so long as the necessary business of the session requires.¹⁶ Special sessions are held when called by the auditor, the clerk of the circuit court (in case of the death or disqualification of the auditor), or the recorder (in case of the death or disqualification of the auditor and clerk of the circuit

⁹ Acts 1889, ch. 88, sec. 1. Acts 1899, ch. 241, sec. 1. Acts 1911, ch. 84, sec. 1. Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Acts 1933; Burns 49-1013; Baldwin 7543.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. Bateman v. State, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹³ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215. Op. Atty. Gen. 1935, p. 7.

¹⁴ Rev. L. 1831, ch. 20, sec. 4. Rev. Stat. 1838, ch. 21, sec. 4. Rev. Stat. 1843, ch. 7, sec. 3. 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220.

Suit against canal company. Acts 1851-52; Burns 36-2302 to 36-2304; Baldwin 9254 to 9256.

Suits concerning county seat donations. 1 Rev. Stat. 1852; Burns 26-801; Baldwin 5251.

¹⁵ Dice v. County Board of Finance, 99 Ind. App. 405, 192 N. E. 77 (1934).

¹⁶ Rev. L. 1831, ch. 20, sec. 5. Rev. Stat. 1838, ch. 21, sec. 5. Rev. Stat. 1843, ch. 7, sec. 4. 1 Rev. Stat. 1852, ch. 20, sec. 6. Acts 1859, ch. 21. Acts 1863, ch. 28. Acts 1897, ch. 123, sec. 1. Acts 1899; Burns 26-550; Baldwin 5221.

court).¹⁷ Any two members constitute a quorum to do business. When only two members are present and a division takes place on any question, such question must be continued until the next meeting of the board.¹⁸ The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.¹⁹ All meetings of the board are open to the public.²⁰ An official seal must be kept and used by the board.²¹

From the organization of Marshall County in 1836, the general administrative control of county matters has been vested in a board of commissioners similar to the present board, except that since 1899 many powers previously exercised by the board of commissioners have been vested in the county council.²²

FUNCTIONS AND RECORDS

The board of commissioners may purchase and sell property for the county (consent of county council is required when value is \$1,000 or more);²³ has control of the county property; may grant licenses, permits, and franchises with respect to county property;²⁴ has charge of the purchase of

¹⁷ Acts 1844-45 (general), ch. 66. Acts 1863; Burns 26-607 to 26-609; Baldwin 5222, 5224, 5225. Acts 1899; Burns 26-610; Baldwin 5223.

¹⁸ Rev. L. 1831, ch. 20, sec. 8. Rev. Stat. 1838, ch. 21, sec. 8. Rev. Stat. 1843, ch. 7, secs. 1, 6. 1 Rev. Stat. 1852, Acts 1929; Burns 26-601, 26-618; Baldwin 5215, 5227.

¹⁹ Rev. L. 1831, ch. 20, sec. 6. Rev. Stat. 1843, ch. 7, secs. 5, 25. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

²⁰ Rev. Stat. 1843, ch. 7, sec. 18. 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

²¹ Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 9. 1 Rev. Stat. 1852; Burns 26-622; Baldwin 5232.

²² Rev. L. 1831, ch. 20. Acts 1834-35 (general), ch. 48 (misnumbered 68). Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, secs. 1-43. Acts 1846-47 (local), ch. 328. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20. Acts 1899, ch. 154. Snider v. State ex rel. Leap, 206 Ind. 474, 190 N. E. 178 (1934). See the essay entitled "County Council."

Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

²³ Acts 1838-39 (general), ch. 32. Rev. Stat. 1843, ch. 19, secs. 34, 42. Acts 1851-53, ch. 2, sec. 2. Acts 1855, ch. 12, sec. 1. Acts 1872 (Spec. Sess.), ch. 10, sec. 4. Acts 1903, 1939; Burns. 1941 suppl., 22-3201; Baldwin, 1939 suppl., 4507. Acts 1899; Burns 26-534; Baldwin 5399. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1907; Burns 26-2008; Baldwin 5107. Acts 1917; Burns 26-2701; Baldwin 5165. Acts 1929; Burns 32-104; Baldwin 4878.

²⁴ Rev. L. 1831, ch. 90, sec. 30. Rev. Stat. 1843, ch. 7, sec. 14; ch. 19, sec. 42. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1909; Burns

materials and supplies needed by the county officials;²⁵ has control over all civil engineering work for the county;²⁶ has charge of the construction and maintenance of roads,²⁷ bridges, culverts,²⁸ waterways,²⁹ and county buildings and other structures;³⁰ has the power of eminent domain;³¹ pro-

26-1801 to 26-1803; Baldwin 5151, 5152, 5152 note. Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

Insurance. Potts v. Bennett, 140 Ind. 71, 39 N. E. 518 (1895); Barnhill v. Woodard, 26 Ind. App. 482, 59 N. E. 1085 (1901).

²⁵ Rev. L. 1831, ch. 15, sec. 14. Rev. Stat. 1838, ch. 17, sec. 14. Rev. Stat. 1843, ch. 59, sec. 16 (14). 1 Rev. Stat. 1852, ch. 37, sec. 11. Acts 1865 (Spec. Sess.), ch. 99. Acts 1875, ch. 17. Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401. Acts 1917; Burns 26-2209; Baldwin 5173. Acts 1875 (Spec. Sess.), 1919; Burns 49-1435, 49-32 06; Baldwin 13150, 5487. Acts 1899, 1913; Burns 52-209; Baldwin 13372.

²⁶ 1 Rev. Stat. 1852, ch. 103, sec. 2. Acts 1911; Burns 49-3309; Baldwin 5508.

²⁷ Rev. L. 1831, chs. 20, 22, 82. Rev. Stat. 1838, ch. 21, sec. 22; ch. 91. Rev. Stat. 1843, ch. 16. 1 Rev. Stat. 1852, ch. 48; ch. 80, sec. 4. Acts 1855, ch. 57. Acts 1858 (Spec. Sess.), ch. 9. Acts 1859, ch. 127, sec. 23. Acts 1865, chs. 8, 18, 39. Acts 1877, ch. 47; ch. 85, sec. 23. Acts 1879 (Spec. Sess.), ch. 115. Acts 1881 (Spec. Sess.), chs. 61-63. Acts 1885 (Spec. Sess.), chs. 57, 58, 68, 85. Acts 1893, chs. 88, 112, 163. Acts 1899, chs. 97, 109, 176, 206, 243. Acts 1901, chs. 51, 202, 205. Acts 1905, chs. 87, 100, 160, 164, 167. Acts 1913, chs. 330, 345. Acts 1915, ch. 186. Acts 1917, ch. 87, sec. 28; ch. 164. Acts 1919, chs. 112, 154, 208. Acts 1920 (Spec. Sess.), ch. 39. Acts 1921, ch. 178; ch. 234, sec. 3; ch. 262. Acts 1927, chs. 32, 239. Acts 1932 (Spec. Sess.), ch. 12, sec. 1; chs. 15, 16, 32. Acts 1933, chs. 27, 39. Acts 1935, chs. 56, 94, 145, 238. Acts 1937, ch. 48, sec. 1; ch. 135, secs. 4, 6, 8; chs. 136, 183; ch. 211, sec. 3. Acts 1939, ch. 64, sec. 1; ch. 140.

Convict labor. Acts 1913; Burns 13-109; Baldwin 13518.

²⁸ Rev. L. 1831, ch. 82, secs. 62, 66, 69. Rev. Stat. 1838, ch. 91, secs. 57-64. Rev. Stat. 1843, ch. 16, secs. 58-74. 1 Rev. Stat. 1852, ch. 16, secs. 4-6. Acts 1855, ch. 5. Acts 1869 (Spec. Sess.), ch. 8. Acts 1881, ch. 3, sec. 1. Acts 1885, chs. 31, 45. Acts 1895, ch. 96. Acts 1905, ch. 167, secs. 39, 45. Acts 1913, ch. 330. Acts 1919, chs. 93, 112. Acts 1920 (Spec. Sess.), ch. 25; ch. 39, sec. 4. Acts 1923, ch. 190. Acts 1927, ch. 10, secs. 4, 24; ch. 238, sec. 1. Acts 1929, ch. 114, secs. 1, 2; ch. 124. Acts 1932 (Spec. Sess.), ch. 32. Acts 1933, ch. 27, sec. 3.

²⁹ Acts 1832-33, ch. 58, sec. 2. 1 Rev. Stat. 1852, ch. 73. Acts 1861, ch. 46, secs. 11, 12. Acts 1873, chs. 15, 106. Acts 1905, ch. 167, secs. 24-26, 29, 30. Acts 1915, ch. 94.

³⁰ Rev. L. 1831, ch. 15, sec. 13; ch. 20, secs. 24, 27; ch. 69, sec. 28; ch. 90, sec. 16. Rev. Stat. 1838, ch. 20, sec. 24; ch. 79, sec. 31. Rev. Stat. 1843, ch. 7, secs. 20, 21; ch. 19, secs. 34, 37; ch. 57, sec. 1. 1 Rev. Stat. 1852, ch. 20, secs. 16, 17; ch. 58, sec. 1; ch. 81, sec. 25. Acts 1855, ch. 12. Acts 1889, ch. 155. Acts 1895, ch. 105, secs. 13-16. Acts 1899, ch. 110, secs. 1, 3; ch. 154, sec. 37. Acts 1901, ch. 38. Acts 1903, ch. 133. Acts 1907, ch. 271, secs. 1, 3, 4, 9. Acts 1911, ch. 173. Acts 1913, ch. 172. Acts 1915, ch. 163. Acts 1917, ch. 156, secs. 4-8. Acts 1919, ch. 55, secs. 2-5. Acts 1927, ch. 59, sec. 1. Acts 1933, ch. 258. Acts 1935, ch. 183.

³¹ Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1941 suppl., 36-711; Baldwin, 1935 suppl., 8861-1. Acts 1921; Burns 59-416; Baldwin 10783.

vides office rooms for county officers;³² prepares annual budget estimates;³³ may authorize tax refunds;³⁴ allows claims against the county;³⁵ issues bonds and short-term notes (after authorization by the county council);³⁶ and may levy taxes for library purposes³⁷ and to retire certain county bonds.³⁸

³² Rev. L. 1831, ch. 15, sec. 13. Rev. Stat. 1838, ch. 17, sec. 13. Rev. Stat. 1843, ch. 7, sec. 21. 1 Rev. Stat. 1852, ch. 37, sec. 11. Acts 1855, ch. 49, sec. 31. Acts 1917, ch. 139, sec. 7. Acts 1919, ch. 186, sec. 7. Acts 1937; Burns, 1941 suppl., 2-4726; no Baldwin. Acts 1899; Burns 26-507; Baldwin 5371. 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241. 1 Rev. Stat. 1852; Burns 49-3202; Baldwin 5470.

³³ Acts 1899; Burns 26-516, 26-519; Baldwin 5380, 5383. Estimates for road maintenance are under control of the board and may be changed without the approval of the surveyor or county highway supervisor. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

³⁴ Rev. L. 1831, ch. 81, sec. 29. Acts 1853, ch. 110. Acts 1919, 1927, 1929; Burns 64-2819 to 64-2821; Baldwin 15881, 15882, 15885.

³⁵ Rev. L. 1831, ch. 20, secs. 7, 17; ch. 102, sec. 7. Rev. Stat. 1838, ch. 21, sec. 39. Rev. Stat. 1843, ch. 7, secs. 23, 26, 28, 29; ch. 19, sec. 31. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26-807; Baldwin 5256.

Claims under public welfare law. Acts 1901, ch. 183, sec. 1. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

³⁶ 1 Rev. Stat. 1852, ch. 20, secs. 17-23. Acts 1869, ch. 6. Acts 1873, ch. 14. Acts 1877, ch. 47, sec. 7. Acts 1881 (Spec. Sess.), ch. 61, sec. 4. Acts 1883, ch. 128, sec. 5. Acts 1889, ch. 18, sec. 1; ch. 137, sec. 3; ch. 230, sec. 1; ch. 234, sec. 13. Acts 1891, ch. 72, sec. 1; ch. 88, sec. 1. Acts 1893, ch. 112, sec. 5. Acts 1897, ch. 39, sec. 3. Acts 1899, ch. 206, sec. 7; ch. 252. Acts 1901, ch. 205, secs. 6, 12. Acts 1905, chs. 157, 167, 168. Acts 1909, ch. 101, sec. 12. Acts 1911, ch. 30, sec. 4. Acts 1913, ch. 172, sec. 3; ch. 205; ch. 275, sec. 5; ch. 357, sec. 12. Acts 1915, ch. 81, sec. 38; ch. 159, sec. 1. Acts 1917, ch. 87, sec. 28; ch. 124, sec. 6; ch. 144, secs. 1, 5; ch. 156, secs. 5, 10. Acts 1919, ch. 55, sec. 5; ch. 67; ch. 112, secs. 14, 43; ch. 115, sec. 8; ch. 131, sec. 4. Acts 1920 (Spec. Sess.), ch. 25, sec. 2; ch. 43, sec. 2. Acts 1921, ch. 153; ch. 245, secs. 4, 17; ch. 262, secs. 35, 43. Acts 1923, ch. 105, sec. 1; ch. 122, sec. 3. Acts 1925, chs. 96, 129; ch. 167, sec. 2; ch. 184. Acts 1927, ch. 10, sec. 4; ch. 38, sec. 1; ch. 52, sec. 1; ch. 72, sec. 1; ch. 174, sec. 3. Acts 1929, ch. 17, sec. 3; ch. 112, sec. 1; ch. 135; ch. 136, sec. 3; ch. 135. Acts 1931, ch. 73, sec. 1. Acts 1932 (Spec. Sess.), chs. 15, 46, 53. Acts 1933, chs. 130, 203, 234; ch. 264, secs. 36, 37. Acts 1935, ch. 117, secs. 1-3, 10; ch. 155, sec. 1. Acts 1936 (Spec. Sess.), ch. 3, secs. 102-104, 109. Acts 1937, ch. 136.

³⁷ Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510, 41-513; Baldwin, 1939 suppl., 10321, 10324. Acts 1917, 1921; Burns 41-515, 41-517; Baldwin 10326, 10328. *Op. Atty. Gen.* 1937, p. 146.

³⁸ Roads. Acts 1897, ch. 81, sec. 1. Acts 1899, ch. 109, sec. 4. Acts 1901, ch. 207, sec. 7. Acts 1911, ch. 30, secs. 6, 8. Acts 1913, ch. 226, sec. 1. Acts 1919; Burns 36-321; Baldwin 8874. Acts 1903; Burns 36-813; Baldwin 9121. Acts 1905, 1913; Burns 36-1220; Baldwin 8819. Acts 1921; Burns 36-1439; Baldwin 8942.

Jails. Acts 1891, ch. 88, sec. 2.

The board may establish or abolish townships and election precincts, and change the boundary lines thereof;³⁹ provide rooms, booths, chutes, and ballot boxes for elections, and may provide voting machines;⁴⁰ directs payment of the county share of the expenses of registrations for elections and determines the amounts to be paid by the cities in the county;⁴¹ divided the county into four councilmanic districts (for county council) in 1899 and may change the boundaries thereof at intervals of not less than 6 years;⁴² may order elections (not oftener than once each 3 years) on the question of change of county boundaries or formation of a new county;⁴³ may order an election on the question of relocation of the county seat;⁴⁴ may order an election on the question of establishment of a sanitary district within the county;⁴⁵ may order the establishment and construction of

Bridges. Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152.

Flood control. Acts 1915, 1920 (Spec. Sess.); Burns 48-5036; Baldwin 12382.

Hospital. Acts 1913, ch. 275, sec. 1 (repealed by Acts 1927, ch. 144, sec. 20). Acts 1917, 1919, 1921, 1925, 1927; Burns 22-3215; Baldwin 4517.

Purchase of land for park purposes. Acts 1927; Burns 26-1514; Baldwin 5192.

Purchase of public forest lands. Acts 1929; Burns 32-103; Baldwin 4877.

³⁹ Townships. Rev. L. 1831, ch. 33, sec. 4. Rev. Stat. 1838, ch. 24, sec. 5. Rev. Stat. 1843, ch. 2, sec. 1. 1 Rev. Stat. 1852, ch. 110, sec. 1. Acts 1859, 1939, 1941; Burns, 1941 suppl., 26-701; Baldwin, 1941 suppl., 16055. Acts 1919, 1939; Burns, 1941 suppl., 26-705; Baldwin, 1939 suppl., 16059.

Election precincts. Acts 1833-34, ch. 48. Rev. Stat. 1838, ch. 32, sec. 33. Rev. Stat. 1843, ch. 5, sec. 18. 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1877 (Spec. Sess.), ch. 15, secs. 1, 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 8, 9, 11. Acts 1913, ch. 135, secs. 2, 25. Acts 1917, ch. 139, secs. 3, 47. Acts 1919, ch. 136, sec. 3. Acts 1920 (Spec. Sess.), ch. 11, sec. 1. Acts 1927, ch. 195. Acts 1915; Burns 29-518; Baldwin 7204. Acts 1933; Burns 29-319, 29-1808; Baldwin 7317, 11632. Acts 1859, 1907; Burns 29-801 *et seq.*; Baldwin 7039 *et seq.* Acts 1920 (Spec. Sess.); Burns 29-801; Baldwin 7091. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

⁴⁰ Rev. L. 1831, ch. 32, secs. 18, 19. Rev. Stat. 1838, ch. 32, secs. 10, 30. Rev. Stat. 1843, ch. 5, secs. 25-28. 1 Rev. Stat. 1852, ch. 31, sec. 12. Acts 1881 (Spec. Sess.), ch. 47, sec. 18. Acts 1899, ch. 155, sec. 2. Acts 1901, ch. 260, sec. 4. Acts 1907, ch. 282, sec. 14. Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

⁴¹ Acts 1941, ch. 86, sec. 3. Acts 1933; Burns 29-305; Baldwin 7303.

⁴² Acts 1899; Burns 26-502; Baldwin 5366.

⁴³ Const. 1851, art. 15, sec. 7. Acts 1857, ch. 15. Acts 1859, ch. 22, sec. 1. Acts 1875; Burns 26-201; Baldwin 5032. Acts 1861; Burns 26-301; Baldwin 5044.

⁴⁴ Acts 1855, ch. 12. Acts 1865 (Spec. Sess.), ch. 94. Acts 1869, ch. 7. Acts 1885 (Spec. Sess.); Burns 26-401, 26-410; Baldwin 5056, 5065.

⁴⁵ Acts 1913, 1931; Burns 48-4101; Baldwin 11720.

a drainage ditch when requested by a petition of landowners;⁴⁶ may pass on remonstrances against repair or reconstruction of drains;⁴⁷ may assess benefits or damages in the construction or improvement of ditches, drains, or water courses;⁴⁸ may join with the commissioners of adjacent counties or with counties in adjacent States for the construction or improvement of any ditch, drain, or water course;⁴⁹ may establish and maintain libraries⁵⁰ and hospitals;⁵¹ may establish and maintain an asylum for orphan children;⁵² has control of the county poor asylum;⁵³ may establish a workhouse and employ a superintendent thereof;⁵⁴ inspects the county jail⁵⁵ and poor asylum;⁵⁶ may prescribe regulations governing the work of prisoners outside the jail;⁵⁷ maintains standards of weight and measures;⁵⁸ may order the establishment of a permanent meridian line in the county;⁵⁹ may regulate traffic on the county roads;⁶⁰ must repair danger signs

⁴⁶ Acts 1927, ch. 60, sec. 1. Acts 1933, ch. 264, sec. 81. Acts 1933; Burns 27-104; Baldwin 5740.

⁴⁷ Acts 1907, ch. 252, sec. 17. Acts 1915, ch. 107, sec. 11. Acts 1927, ch. 166, sec. 1. Acts 1933, ch. 264, sec. 81. Acts 1933; Burns 27-120; Baldwin 5756.

⁴⁸ Acts 1941, ch. 63. Acts 1933; Burns 27-315; Baldwin 5810.

⁴⁹ Acts 1933; Burns 27-301, 27-307; Baldwin 5796, 5802.

⁵⁰ Rev. L. 1831, ch. 59, secs. 9, 10. Rev. Stat. 1843, ch. 25, secs. 78-81. 1 Rev. Stat. 1852; Burns 41-501, 41-502; Baldwin 10321 note. Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321. Op. Atty. Gen. 1939, p. 124.

⁵¹ Acts 1917, ch. 144, secs. 1, 20. Acts 1919, ch. 131. Acts 1923, ch. 111. Acts 1925, chs. 73, 128. Acts 1927, chs. 52, 72. Acts 1929, ch. 8. Acts 1903, 1939; Burns, 1941 suppl., 22-3201; Baldwin, 1939 suppl., 4507. Acts 1907; Burns 48-7514; Baldwin 4539.

⁵² Acts 1897; Burns 22-2601; Baldwin 4382. Acts 1881, 1885 (Spec. Sess.), 1891; Burns 22-2603; Baldwin 4397.

⁵³ Const. 1816, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852, ch. 81, secs. 25-38. Acts 1899, ch. 76. Acts 1913, ch. 360.

⁵⁴ Acts 1879 (Spec. Sess.); Burns 13-1101, 13-1102; Baldwin 13759, 13760.

⁵⁵ Acts 1807, ch. 11, sec. 8. Acts 1909; Burns 13-1008; Baldwin 13460.

⁵⁶ Rev. Stat. 1843, ch. 19, sec. 38. 1 Rev. Stat. 1852, ch. 115, sec. 3 (repealed by Acts 1853, ch. 119, sec. 1). 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

⁵⁷ Acts 1879, ch. 26. Acts 1905; Burns 9-2229; Baldwin 2336.

⁵⁸ Rev. L. 1831, ch. 110, secs. 1, 2. Rev. Stat. 1838, ch. 114. Rev. Stat. 1843, ch. 63. Acts 1911, ch. 263, secs. 3-7. Acts 1913, ch. 161, sec. 1. 1 Rev. Stat. 1852; Burns 69-101; no Baldwin

⁵⁹ Acts 1895; Burns 49-3327; Baldwin 10849.

⁶⁰ Acts 1925, ch. 213, sec. 52. Acts 1907; Burns 26-629; Baldwin 2928. Acts 1919; Burns 36-706; Baldwin 8899. Acts 1939; Burns, 1941 suppl., 47-1827, 47-1828, 47-2005; Baldwin, 1939 suppl., 11189-37, 11189-38, 11189-66.

installed on public highways by railroad companies;⁶¹ must install and maintain street lights along any property owned by the county and abutting that of a town or city;⁶² may acquire, improve, and equip aviation fields;⁶³ may provide and maintain memorials for soldiers and sailors of the World War;⁶⁴ may authorize the merging of cemetery associations which control contiguous cemeteries;⁶⁵ may enforce regulations of the Administrative Building Council of Indiana;⁶⁶ and may determine the question of public utility of a levee petitioned for by a levee association.⁶⁷

The board may receive funds and property from private sources and hold the same in trust for certain purposes;⁶⁸ may receive donations for bridges,⁶⁹ parks, monuments, and public grounds;⁷⁰ may accept donations of buildings and grounds for county high schools and county agricultural schools;⁷¹ may make donations for certain educational purposes;⁷² may render financial assistance to the State Highway Commission in the construction and maintenance of a State highway or bridge;⁷³ may order elections on the question of public aid to railroads and may grant such aid when

⁶¹ Acts 1921; Burns 55-2009, 55-2010; Baldwin 8637, 8638.

⁶² Acts 1917; Burns 48-3327; Baldwin 5568.

⁶³ Acts 1920 (Spec. Sess.); Burns 14-301 to 14-306; Baldwin 4021, 7991, 4023 to 4026.

⁶⁴ Acts 1921; Burns 59-310, 59-401 to 59-422; Baldwin 10807, 10768 to 10789. Acts 1929; Burns 59-423; Baldwin 10790. Acts 1919; Burns 59-501; Baldwin 10822.

⁶⁵ Acts 1909; Burns 21-501 to 21-504; Baldwin 4639 to 4642.

⁶⁶ Acts 1923; Burns 20-408; Baldwin 4610.

⁶⁷ Acts 1905, ch. 168. Acts 1913, 1927; Burns 27-915; Baldwin 10241.

⁶⁸ Acts 1929, 1931; Burns 26-631, 26-632; Baldwin 4578, 4579.

Cemeteries. Acts 1838-39 (general), ch. 43, secs. 1, 3. Rev. Stat. 1843, ch. 25, secs. 63-67. Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674. 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600. Op. Atty. Gen. 1940, p. 158.

Homes for indigent persons. Acts 1889; Burns 26-1204; Baldwin 5297. Acts 1903; Burns 26-1205; Baldwin 13446.

Bounties for volunteers to military and naval service. Acts 1869 (Spec. Sess.), ch. 7, sec. 1.

⁶⁹ Rev. L. 1831, ch. 82, sec. 67. Rev. Stat. 1838, ch. 91, sec. 62. Rev. Stat. 1843, ch. 16, sec. 61. Acts 1855, ch. 5, sec. 3. Acts 1857, ch. 11, sec. 3. Acts 1905; Burns 36-1902; Baldwin 9237.

⁷⁰ Acts 1865 (Spec. Sess.), ch. 73. Acts 1872 (Spec. Sess.), ch. 6. Acts 1903, ch. 138.

⁷¹ Acts 1889, 1905, 1913, 1921; Burns 28-5124; Baldwin 6119.

⁷² Acts 1889, ch. 230, sec. 1. Acts 1899, ch. 187, sec. 10. Acts 1897; Burns 28-5503 to 28-5506; Baldwin 6784 to 6787.

⁷³ Acts 1923, 1929; Burns 36-136; Baldwin 8672.

authorized by election;⁷⁴ receives petitions for aid to historical societies, makes estimates and recommendations as to amounts of funds needed, and refers the same to the county council for action thereon;⁷⁵ may provide funds for the publication and distribution of World War histories;⁷⁶ may grant aid for city libraries⁷⁷ and for agricultural fairs;⁷⁸ may cancel allowances and warrants drawn thereon if not called for within 5 years;⁷⁹ may order the county auditor to issue fee bills for costs "in cases tried and heard" before the board "in which costs are adjudged against any party;"⁸⁰ may grant franchises to street railway companies for the extension of tracks beyond city limits;⁸¹ may authorize the fencing of lands subject to overflow and the charging of special assessments against the lands benefited thereby;⁸² may make special assessments to pay for flood control maintenance⁸³ and the cost of construction of roads;⁸⁴ may subscribe for newspapers printed in the county and require the recorder to preserve copies thereof;⁸⁵ may order the reproduction of mutilated or decayed records;⁸⁶ may administer oaths; may enforce its orders; may punish for contempt;⁸⁷ may authorize the payment of certain bounties;⁸⁸ may offer rewards in case of murder

⁷⁴ Acts 1869 (Spec. Sess.), 1875 (Spec. Sess.), 1879; Burns 55-302, 55-314; Baldwin 14336.
14348. Acts 1872 (Spec. Sess.); Burns 55-404, 55-411, 55-416; Baldwin 14382, 14389, 14394.

⁷⁵ Acts 1901, ch. 233. Acts 1929; Burns 26-1303, 26-1304; Baldwin 5577, 5578.

⁷⁶ Acts 1921; Burns 26-1312; Baldwin 5304.

⁷⁷ Acts 1917, 1921, 1939; Burns, 1941 suppl., 41-514; Baldwin, 1939 suppl., 10325.

⁷⁸ Acts 1905, 1927, 1932 (Spec. Sess.); Burns 15-317, 15-318; Baldwin 3597, 3598.

⁷⁹ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁸⁰ Acts 1865 (Spec. Sess.); Burns 26-639; Baldwin 5360.

⁸¹ Acts 1875 (Spec. Sess.); Burns 55-610; Baldwin 14151. Acts 1865, 1879 (Spec. Sess.); Burns 55-3901; Baldwin 15457.

⁸² Acts 1875; Burns 30-501 to 30-503; Baldwin 7612 to 7614. Acts 1877 (Spec. Sess.); Burns 30-505 to 30-508; Baldwin 7655 to 7658.

⁸³ Acts 1915, 1920 (Spec. Sess.); Burns 48-5038, 48-5040; Baldwin 12384, 12386.

⁸⁴ Acts 1877, ch. 47, secs. 6, 7. Acts 1883, ch. 128, sec. 4. Acts 1893, ch. 112, sec. 6. Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

⁸⁵ 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

⁸⁶ Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340. 1 Rev. Stat. 1852; Burns 48-5038; Baldwin 5422. 2 Rev. Stat. 1852; Burns 57-101, 57-102, 57-109, 57-111; Baldwin 1168, 1169, 1176, 1178.

⁸⁷ Acts 1833-34, ch. 24. Rev. Stat. 1833, ch. 21, secs. 37, 38; ch. 76, sec. 3. Rev. Stat. 1843, ch. 7, secs. 10, 11. 1 Rev. Stat. 1852; Burns 26-619; Baldwin 5233.

⁸⁸ Rev. L. 1831, ch. 111, sec. 4. Rev. Stat. 1838, ch. 115. Acts 1844-45 (general), ch. 46, sec. 5. 1 Rev. Stat. 1852, ch. 118. Acts 1837, ch. 9, sec. 3. Acts 1873, ch. 14, secs. 1, 2. 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 to 26-1103, 26-1105, 26-1106; Baldwin 5288, 5289, 5290, 5293, 5294.

or lynching;⁸⁹ and provides funds for the arrest and return of fugitives from justice.⁹⁰

The board receives and examines the treasurer's quarterly reports,⁹¹ and makes annual settlement with him;⁹² annually prepares a statement of the receipts and disbursements of the previous year, and causes it to be published and posted;⁹³ makes an annual report concerning the school funds (after receiving reports from the county treasurer and auditor), makes a permanent record of this report, and sends a copy to the Auditor of State;⁹⁴ may approve (subject to further approval by the State Board of Accounts) the installation of a modern tax-accounting system in the offices of the auditor and treasurer;⁹⁵ may authorize county offices to use a photographic process for recording deeds, mortgages, and other instruments;⁹⁶ and may direct the county surveyor to procure a certified copy of the field notes of the townships, ranges, sections, fractional sections, and quarter sections, as originally surveyed, from register of land office and to deposit the same in the office of the recorder.⁹⁷

The board may license ferries⁹⁸ and fix ferry rates;⁹⁹

⁸⁹ Acts 1899; Burns 26-1104; Baldwin 5280.

⁹⁰ Acts 1901, ch. 104. Acts 1905, ch. 169, sec. 42. Acts 1909, ch. 66, sec. 1. Acts 1921 ch. 8, sec. 2. Acts 1923, ch. 92, sec. 1. Acts 1935; Burns, 1941 suppl., 9-419, 9-442; Baldwin, 1937 suppl., 2049-1, 2049-24.

⁹¹ Rev. L. 1824, ch. 23, sec. 4. Acts 1842-43 (general), ch. 74, sec. 1. Acts 1871, ch. 17, secs. 27, 31. Acts 1873, ch. 48, sec. 41. Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

⁹² Rev. L. 1831, ch. 21, sec. 2. Rev. Stat. 1838, ch. 22, sec. 2. Rev. Stat. 1843, ch. 7, sec. 90. Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

⁹³ Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 35. 1 Rev. Stat. 1852, ch. 20, sec. 29. Acts 1899; Burns 26-546; Baldwin 5411.

⁹⁴ Acts 1846-47, (general), ch. 9, sec. 4. 1 Rev. Stat. 1852, ch. 98, secs. 63, 65-67. Acts 1855, ch. 86, secs. 90-92. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

⁹⁵ Acts 1937; Burns, 1941 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

⁹⁶ Acts 1927; Burns 49-3207; Baldwin 14667.

⁹⁷ Rev. L. 1831, ch. 102, secs. 5, 7. Rev. Stat. 1838, ch. 103, secs. 5, 7. Rev. Stat. 1843, ch. 10, secs. 9, 10. 1 Rev. Stat. 1852, ch. 103, sec. 2. Acts 1911; Burns 49-3309; Baldwin 5508.

⁹⁸ Rev. L. 1831, ch. 38, sec. 1. Rev. Stat. 1838, ch. 41, sec. 1. Rev. Stat. 1843, ch. 17, secs. 1-8. 1 Rev. Stat. 1852, ch. 80, sec. 27. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501; Baldwin 7676. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601; Baldwin 7691. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608; Baldwin 7698.

⁹⁹ Rev. L. 1831, ch. 26, sec. 43; ch. 38, sec. 10. Rev. Stat. 1838, ch. 41, sec. 10. Rev. Stat. 1843, ch. 53, sec. 82. 1 Rev. Stat. 1852, ch. 39, sec. 10. Acts 1881 (Spec. Sess.), 1897; Burns 36-2613; Baldwin 7703.

may make certain regulations concerning the operation of ferries;¹⁰⁰ may authorize elections for the incorporation of towns and declare the results thereof;¹⁰¹ may authorize a town to annex unplatted land;¹⁰² may specify "what kind of animals shall be allowed to pasture or run at large on the uninclosed lands or public commons" within the bounds of any township in the county;¹⁰³ may furnish antitoxin and virus for poor persons without charge;¹⁰⁴ may contract with the State Veterinarian for tuberculin cattle tests;¹⁰⁵ and may, with the consent of the county council, appropriate money for the extermination of rats.¹⁰⁶

The board cannot bind the county by any contract or agreement, or in any other way, to any extent beyond the amount of money already appropriated by ordinance of the county council for the purpose of the obligation attempted to be incurred, unless some law enacted after 1897 expressly authorizes such action.¹⁰⁷

The board has authority to appoint a county highway supervisor,¹⁰⁸ a highway construction inspector,¹⁰⁹ a county health officer,¹¹⁰ a public health nurse,¹¹¹ a county inspector of weights and measures,¹¹² a superintendent of the

¹⁰⁰ Rev. L. 1831, ch. 38, secs. 5, 7, 11. Rev. Stat. 1843, ch. 17, sec. 9. 1 Rev. Stat. 1852; Burns 36-2606; Baldwin 7696. Acts 1881 (Spec.Sess.); Burns 36-2614; Baldwin 7704.

¹⁰¹ Rev. Stat. 1843, ch. 25, secs. 1, 2. 1 Rev. Stat. 1852, ch. 108, sec. 5. Acts 1905, 1909; Burns 48-104, 48-105, 48-109; Baldwin 11327, 11328, 11332.

¹⁰² 1 Rev. Stat. 1852, ch. 17, secs. 82, 83; ch. 108, secs. 51, 52. Acts 1857, ch. 33, secs. 84, 85. Acts 1865 (Spec. Sess.), ch. 1, secs. 83, 84, 92. Acts 1867, ch. 15, secs. 85, 86. Acts 1909; Burns 48-707, 48-708; Baldwin 11340, 11341.

¹⁰³ Acts 1843-44 (general), ch. 45. 1 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 16-101, 16-102; Baldwin 5028, 5029.

¹⁰⁴ Acts 1907, 1919, 1929, 1935; Burns, 1941 suppl., 35-701; Baldwin, 1935 suppl., 13392.

¹⁰⁵ Acts 1925, 1927; Burns 16-608; Baldwin 3871. Acts 1931; Burns 16-616; Baldwin 3883.

¹⁰⁶ Acts 1913; Burns 35-1603; Baldwin 8572.

¹⁰⁷ Acts 1899; Burns 26-525; Baldwin 5389.

¹⁰⁸ Acts 1933; Burns 36-1110; Baldwin 8708. See the essay entitled "County Highway Supervisor."

¹⁰⁹ Acts 1919; Burns 36-324; Baldwin 8876. Acts 1921; Burns 36-1447; Baldwin 8950.

¹¹⁰ Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. See the essay entitled "County Health Officer."

¹¹¹ Acts 1935; Burns, 1941 suppl., 35-123; Baldwin, 1935 suppl., 8401-6. See the essay entitled "Public Health Nurse."

¹¹² Acts 1911, ch. 263, sec. 3. Acts 1913, ch. 161, sec. 1. Acts 1925; Burns 69-104, 69-107; Baldwin 16335, 16338.

poor asylum,¹¹³ a curator for the county historical society (if any),¹¹⁴ food inspectors (beef, flour, pork, salt, and hay),¹¹⁵ an appraiser of State lands,¹¹⁶ fence viewers,¹¹⁷ hospital trustees,¹¹⁸ a board of visitors (one member from each township) to the county asylum,¹¹⁹ a memorial committee (100 or more members),¹²⁰ three members of a board of memorial trustees,¹²¹ one member of the local alcoholic beverage board,¹²² five members of county planning commission,¹²³ three members of the county public library board,¹²⁴ two members of a city or town library board (when city or town library is receiving county aid),¹²⁵ and three members of a miners' examination board;¹²⁶ may employ a county attorney,¹²⁷ tax ferrets,¹²⁸ a civil engineer (if the surveyor is not a competent civil engineer),¹²⁹ bridge superinten-

¹¹³ Rev. Stat. 1843, ch. 19, sec. 34. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1927; Burns 22-3009; Baldwin 4354. Acts 1899, 1913; Burns 52-204; Baldwin 13365.

¹¹⁴ Acts 1921, ch. 248, sec. 1. Acts 1929; Burns 26-1309; Baldwin 5583.

¹¹⁵ Rev. L. 1831, ch. 50, secs. 1-6. Acts 1833-34, ch. 72, secs. 1, 14. Rev. Stat. 1838, ch. 53, secs. 1, 3, 6. Acts 1839-40 (general), ch. 21, sec. 1. Rev. Stat. 1843, ch. 27, secs. 1, 3. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9468.

¹¹⁶ Acts 1889; Burns 62-207; Baldwin 15273.

¹¹⁷ Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20-23. Acts 1875; Burns 30-501; Baldwin 7642. Acts 1877 (Spec. Sess.); Burns 30-605; Baldwin 7655.

¹¹⁸ Acts 1917, ch. 144, sec. 20. Acts 1917; Burns 22-3217, 22-3219; Baldwin 4518, 4520. Acts 1913, 1917, 1927; Burns 22-3301; Baldwin 4478. Acts 1925; Burns 22-3402; Baldwin 9286.

¹¹⁹ 1 Rev. Stat. 1852; Burns 52-217; Baldwin 13377.

¹²⁰ Acts 1919; Burns 59-502; Baldwin 10823.

¹²¹ Acts 1919, 1921; Burns 59-506; Baldwin 10827.

¹²² Acts 1935, 1937, 1941; Burns, 1941 suppl., 12-417; Baldwin, 1941 suppl., 3764-6.

¹²³ Acts 1935; Burns, 1941 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

¹²⁴ Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321.

¹²⁵ Acts 1917, 1921, 1939; Burns, 1941 suppl., 41-514; Baldwin, 1939 suppl., 10325.

¹²⁶ Acts 1923; Burns 46-1001; Baldwin 11073.

¹²⁷ Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

¹²⁸ Acts 1905; Burns 64-2830; Baldwin, 1935 suppl., 15696-1.

¹²⁹ Acts 1816-17, ch. 26, sec. 1. Acts 1877, ch. 47, sec. 2. Acts 1883, ch. 128, sec. 2. Acts 1891, ch. 196, sec. 3. Acts 1893, ch. 88, sec. 2; ch. 112, sec. 1. Acts 1901, ch. 205, secs. 1, 10, 14. Acts 1903, ch. 145, sec. 2. Acts 1883; Burns 26-1405; Baldwin 5317. Acts 1919; Burns 36-306, 36-505; Baldwin 8864, 8883. Acts 1909; Burns 36-805; Baldwin 9113. Acts 1905, 1907; Burns 36-1205, 36-1301; Baldwin 8808, 8787. Acts 1903; Burns 36-12335; Baldwin 9095. Acts 1921; Burns 36-1410; Baldwin 8913. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

dents,¹³⁰ a custodian of public halls,¹³¹ inspectors for construction and repair of county buildings,¹³² a commissioner to reproduce county records which have been mutilated or destroyed,¹³³ road viewers and reviewers,¹³⁴ a county veterinarian,¹³⁵ a physician for poor persons (in county institutions) and prisoners;¹³⁶ may regulate the number of justices of the peace in each township (subject to certain statutory requirements), and may appoint justices in certain instances;¹³⁷ may authorize the appointment of deputies and assistants of county officers;¹³⁸ approves the official bonds¹³⁹ of the

¹³⁰ Rev. L. 1831, ch. 62, sec. 62. Rev. Stat. 1838, ch. 91, sec. 57. Rev. Stat. 1843, ch. 16, sec. 62. Acts 1855, ch. 5, sec. 4. Acts 1863, ch. 10, sec. 3. Acts 1869 (Spec. Sess.), ch. 8, sec. 2. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903; Burns 36-2003; Baldwin 9193. Acts 1895; Burns 36-2217; Baldwin 9232.

¹³¹ Acts 1903; Burns 26-1904; Baldwin 5149.

¹³² Acts 1907; Burns 26-2006; Baldwin 5105.

¹³³ 2 Rev. Stat. 1852, Acts 1865; Burns 57-109; Baldwin 1176.

¹³⁴ Rev. L. 1831, ch. 32, secs. 4, 53. Rev. Stat. 1838, ch. 91, secs. 4, 7, 10, 13, 74, 75. Rev. Stat. 1843, ch. 16, secs. 13, 18, 22, 33, 39. 1 Rev. Stat. 1852, ch. 48, secs. 9, 15, 19, 22, 23. Acts 1855, ch. 8, secs. 3-5. Acts 1869 (Spec. Sess.), ch. 35, sec. 2. Acts 1875, ch. 50, sec. 3. Acts 1877, ch. 47, secs. 2-6. Acts 1883, ch. 128, secs. 2, 3. Acts 1889, ch. 85, sec. 2; ch. 137, sec. 1; ch. 192, sec. 1; ch. 234, sec. 2. Acts 1893, ch. 88, sec. 2; ch. 112, sec. 1. Acts 1901, ch. 205, secs. 1, 14. Acts 1903, ch. 145, sec. 2. Acts 1905, 1907, 1911, 1913; Burns 36-201, 36-205, 36-209, 36-216, 36-220, 36-221, 36-223, 36-224, 36-1205, 36-1215, 36-1301; Baldwin 8756, 8760, 8764, 8773, 8776, 8777, 8780, 8781, 8808, 9097, 8787. Acts 1907; Burns 36-405; Baldwin 8996. Acts 1909; Burns 36-805, 36-808; Baldwin 9113, 9116. Acts 1933; Burns 36-1108; Baldwin 8076. Acts 1921; Burns 36-1430; Baldwin 8933. Acts 1935; Burns, 1941 suppl., 36-2704, 36-2705; Baldwin, 1935 suppl., 14775-4, 14775-5.

¹³⁵ Acts 1925; Burns 16-609; Baldwin 3872. Acts 1915; Burns 16-703; Baldwin 3853.

¹³⁶ 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81, sec. 27. Acts 1859, ch. 5, sec. 1. Acts 1899; Burns 26-533; Baldwin 5398. Lamar v. Board of County Comrs., 4 Ind. App. 191, 30 N. E. 912 (1892).

¹³⁷ Rev. L. 1831, ch. 33, secs. 5-7. Rev. Stat. 1838, ch. 21, sec. 12. Rev. Stat. 1843, ch. 4, sec. 22. 2 Rev. Stat. 1852, ch. 1, sec. 1, p. 449. Acts 1913; Burns 5-101; Baldwin 1828. Acts 1891, 1923; Burns 5-109, 5-110; Baldwin 1833, 1834.

Formerly the board ordered special elections to fill vacancies in the office of justice of the peace. Acts 1819-20, ch. 21, sec. 2. Acts 1838-39 (general), ch. 83, sec. 2.

¹³⁸ Acts 1816-17, ch. 26, sec. 1. Acts 1840-41 (general), ch. 3, sec. 6. Rev. Stat. 1843, ch. 7, sec. 63. Acts 1891, ch. 99, sec. 113. Acts 1933; Burns 36-1107; Baldwin 8075. Acts 1935; Burns, 1941 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1. Acts 1921; Burns 49-504; Baldwin 5497. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Acts 1937; Burns, 1941 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

¹³⁹ Acts 1847-48 (general), ch. 58. Acts 1851-52; Burns 49-123; Baldwin 13093. Acts 1873. Burns 49-141; Baldwin 13092.

auditor,¹⁴⁰ clerk of the circuit court,¹⁴¹ coroner,¹⁴² recorder,¹⁴³ sheriff,¹⁴⁴ surveyor,¹⁴⁵ treasurer,¹⁴⁶ bridge superintendents,¹⁴⁷ memorial trustees,¹⁴⁸ hospital trustees,¹⁴⁹ superintendent of the poor asylum,¹⁵⁰ and county inspector of weights and measures;¹⁵¹ directs the commencement of actions on the bonds of defaulting county and township officials;¹⁵² may remove a delinquent county treasurer after suit on his official bond has been commenced;¹⁵³ may remove township trustees from office for failure to keep proper books and accounts as required by the school laws;¹⁵⁴ and may appoint successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, treasurer,¹⁵⁵ any officers originally

¹⁴⁰ Acts 1840-41 (general), ch. 2, secs. 2, 5. Rev. Stat. 1843, ch. 7, secs. 45, 49. 1 Rev. Stat. 1852, ch. 8, sec. 2. Acts 1839; Burns 49-3003; Baldwin 5417.

¹⁴¹ Acts 1807, ch. 71, sec. 1. Acts 1847-48 (general), ch. 58. Acts 1851-52; Burns 49-123; Baldwin 13093. Acts 1875; Burns 49-2703; Baldwin 1430.

¹⁴² Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

¹⁴³ Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

¹⁴⁴ Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1941 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

¹⁴⁵ Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

¹⁴⁶ Rev. L. 1831, ch. 21, sec. 1. Rev. Stat. 1838, ch. 22, sec. 1. Rev. Stat. 1843, ch. 7, secs. 67, 74. 1 Rev. Stat. 1852, ch. 104, sec. 2. Acts 1865, ch. 3. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548.

¹⁴⁷ Acts 1863, ch. 10, sec. 4. Acts 1869, ch. 8, sec. 4. Acts 1903; Burns 36-2003; Baldwin 9193. Acts 1913; Burns 36-2001; Baldwin 9191.

¹⁴⁸ Acts 1921; Burns 59-506(2); Baldwin 10827(2).

¹⁴⁹ Acts 1917; Burns 22-3218; Baldwin 4519.

¹⁵⁰ Rev. Stat. 1843, 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

¹⁵¹ Acts 1925; Burns 69-106; Baldwin 16337.

¹⁵² Acts 1826-27, ch. 72, sec. 4. 1 Rev. Stat. 1852, ch. 12, sec. 15. Acts 1873; Burns 49-140; Baldwin 13091.

¹⁵³ Rev. Stat. 1843, ch. 7, sec. 87. 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

¹⁵⁴ Acts 1865; Burns 28-2420; Baldwin 5980.

¹⁵⁵ 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104.

Auditor. Acts 1840-41 (general), ch. 2, sec. 5. Rev. Stat. 1843, ch. 7, secs. 49, 50.

County assessor. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1915, ch. 116, sec. 1. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

Treasurer. Acts 1817-18 (general), ch. 44, sec. 3. Acts 1840-41 (general), ch. 4, sec. 4. Rev. Stat. 1843, ch. 7, secs. 74, 87. Acts 1845-46 (general), ch. 2, sec. 1. 1 Rev. Stat. 1852, Acts

appointed to office by the board of commissioners,¹⁵⁶ the township trustee,¹⁵⁷ and certain other township officers.¹⁵⁸ Appointments made by the board are certified by the auditor.¹⁵⁹

The members of the board of commissioners are ex officio members of the county board of finance.¹⁶⁰ The president of the board of commissioners is an ex officio member of the commission of public records.¹⁶¹ The three county commissioners are members of the county hospital governing board when such board exists, and serve with eight members appointed by the judge of the circuit court.¹⁶² Members of the board of commissioners served on the county board of equalization from 1841 until 1891.¹⁶³

The county council and the board of commissioners, acting together, approve the acceptance of lands donated to the county for purposes of a public forest;¹⁶⁴ could grant aid for maintenance of a forest owned by a forestry association from 1913 until 1935;¹⁶⁵ hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;¹⁶⁶ determine, on proper petition, the order in which county road projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;¹⁶⁷ and rebuild

1865, 1919; Burns 49-3101; Baldwin 5548.

Notice of resignations. 1 Rev. Stat. 1852; Burns 49-206; Baldwin 13100.

¹⁵⁶ See the authorities cited above for the appointment of officers by the board of commissioners.

Resignations. 1 Rev. Stat. 1852; Burns 49-205; Baldwin 13090.

¹⁵⁷ 1 Rev. Stat. 1852, ch. 110, sec. 17. Acts 1859, 1933; Burns 65-106; Baldwin 16063.

¹⁵⁸ Acts 1840-41 (general), ch. 2, sec. 5. Rev. Stat. 1843, ch. 7, secs. 49, 50. 1 Rev. Stat. 1852, ch. 115, sec. 4. Acts 1859, ch. 133, sec. 9. Acts 1933, ch. 150, sec. 1.

¹⁵⁹ 1 Rev. Stat. 1852; Burns 49-204; Baldwin 13098.

¹⁶⁰ Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. See the essay entitled "Board of Finance."

¹⁶¹ Acts 1939, ch. 91, sec. 1. See the essay entitled "Commission of Public Records."

¹⁶² Acts 1903, 1939; Burns, 1941 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

¹⁶³ Acts 1838-39 (general), ch. 14, secs. 5, 14, 15. Acts 1840-41 (general), ch. 1, secs. 9, 13, 18; ch. 5, sec. 14. Rev. Stat. 1843, ch. 12, sec. 42. 1 Rev. Stat. 1852, ch. 6, secs. 58, 91; ch. 35, sec. 2. Acts 1867, ch. 110, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1881 (Spec. Sess.), ch. 96, sec. 129. Acts 1891, ch. 99, sec. 114.

¹⁶⁴ Acts 1929; Burns 32-105; Baldwin 4879.

¹⁶⁵ Acts 1913, ch. 13, sec. 4. Acts 1935, ch. 27, sec. 1.

¹⁶⁶ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

¹⁶⁷ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.¹⁶⁸

Formerly the board of commissioners could appoint appraisers (taxes, 1841 to 1872),¹⁶⁹ assessors (taxes, 1836 to 1841),¹⁷⁰ a clerk of the board of turnpike directors (1879 to 1913),¹⁷¹ a commissioner of the 3 percent fund (1836 to 1853),¹⁷² a county agent (1836 to 1853),¹⁷³ constables (1836 to 1853),¹⁷⁴ a county surveyor (1843 to 1851),¹⁷⁵ drainage commissioners and appraisers (1863 to 1933),¹⁷⁶ election inspectors (1836 to 1929),¹⁷⁷ a librarian and a treasurer for

¹⁶⁸ Acts 1935; Burns, 1941 suppl., 26-3011; Baldwin, 1935 suppl., 5240-1.

¹⁶⁹ Acts 1840-41 (general), ch. 1, secs. 1-13, 30. Rev. Stat. 1843, ch. 12, sec. 20. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

Office of appraiser replaced by office of county assessor. Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

¹⁷⁰ Rev. L. 1831, ch. 81, secs. 3, 4. Acts 1835-36 (general), ch. 7, secs. 3, 4, 35. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, sec. 12. Acts 1840-41 (general), ch. 3, sec. 1.

¹⁷¹ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1882, ch. 99, sec. 1. Acts 1893, ch. 163, sec. 1.

Board of turnpike directors was abolished in 1913. Acts 1913, ch. 330, secs. 1, 2. State ex rel. Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914).

¹⁷² Acts 1832-33, ch. 58, secs. 2, 5, 6. Acts 1835-36 (general), ch. 42, sec. 2. Rev. Stat. 1838, ch. 107 (first act), secs. 2, 3. Rev. Stat. 1843, ch. 7, sec. 32. 1 Rev. Stat. 1852, chs. 44, 92. Acts 1881 (Spec. Sess.), ch. 102.

¹⁷³ Rev. L. 1831, ch. 85, secs. 1, 2, 4, 6, 11. Rev. Stat. 1838, ch. 93, secs. 1, 2, 4, 11. Rev. Stat. 1843, ch. 4, sec. 48; ch. 18, secs. 5, 12, 13, 17. Acts 1851-52, ch. 2.

¹⁷⁴ Rev. L. 1831, ch. 17, secs. 5, 9, 20; ch. 20, sec. 20. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, secs. 20-22. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 70, 71. 1 Rev. Stat. 1852, ch. 115, sec. 4. 2 Rev. Stat. 1852, ch. 2, sec. 1, p. 460.

¹⁷⁵ Rev. L. 1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs. 4, 5. Rev. Stat. 1838, ch. 103 (first act), sec. 1; ch. 103 (second act), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

¹⁷⁶ Acts 1863, ch. 27, sec. 1. Acts 1867, ch. 99, sec. 1. Acts 1873, ch. 66, sec. 13. Acts 1875, ch. 64, secs. 2, 5. Acts 1879 (Spec. Sess.), ch. 121, sec. 1. Acts 1883, ch. 132, secs. 2, 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1889, ch. 67, sec. 13. Acts 1891, ch. 196, sec. 3. Acts 1893, ch. 146, sec. 3. Acts 1901, ch. 235, secs. 1, 2. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, sec. 1. Acts 1933, ch. 264, sec. 81.

¹⁷⁷ Rev. L. 1831, ch. 20, sec. 20; ch. 33, sec. 5. Rev. Stat. 1838, ch. 21, secs. 20, 22. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69, 71. 1 Rev. Stat. 1852, ch. 31, secs. 3, 4. Acts 1877 (Spec. Sess.), ch. 15, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, sec. 11. Acts 1889, ch. 87, sec. 4.

These laws were superseded as to primary elections by an act of 1915 and as to general elections by an act of 1929. Acts 1915, ch. 105, secs. 5, 7. Acts 1929, ch. 150.

the county library,¹⁷⁸ liquor agents (1855 to 1859),¹⁷⁹ a matron for pauper children (1881 to 1936)¹⁸⁰ overseers of the poor (1836 to 1853),¹⁸¹ a poundkeeper (1836 to 1853),¹⁸² road commissioners (1836 to 1865),¹⁸³ road superintendent (1879 to 1933),¹⁸⁴ road supervisors (township or district, 1836 to 1853),¹⁸⁵ school examiners (1853 to 1873),¹⁸⁶ school superintendents and trustees (lands and funds, 1836 to 1853),¹⁸⁷ a tax collector (1836 to 1841),¹⁸⁸ tobacco inspectors (1836 to 1857),¹⁸⁹ a treasurer (1836 to 1841),¹⁹⁰ two members of each township board of registry (1867 to 1868),¹⁹¹ a board of visitors (three members) for examination of homes where

¹⁷⁸ Acts 1845-46 (general), ch. 9.

¹⁷⁹ Acts 1855, ch. 105, secs. 5, 7. Acts 1858 (Spec. Sess.), ch. 15, sec. 1.

¹⁸⁰ Acts 1881 (Spec. Sess.), ch. 81, secs. 1, 2, 5. Acts 1936 (Spec. Sess.), ch. 3, secs. 5, 24, 129.

¹⁸¹ Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 79, secs. 1, 9. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71. 1 Rev. Stat. 1852, ch. 81, secs. 1, 2; ch. 110, secs. 5, 17.

¹⁸² Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838 (first act), ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, sec. 49; ch. 7, sec. 20. 1 Rev. Stat. 1852, ch. 92.

¹⁸³ Acts 1822-23, ch. 25, sec. 5. Rev. Stat. 1838, ch. 91, secs. 67, 75, 79. Rev. Stat. 1843 ch. 16, sec. 6. 1 Rev. Stat. 1852, ch. 48, secs. 1-4. Acts 1855 (Spec. Sess.), ch. 29, secs. 2, 3.

¹⁸⁴ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1883, ch. 99, sec. 1. Acts 1885 (Spec Sess.), ch. 57, secs. 9, 10. Acts 1889, ch. 85, sec. 8; ch. 234, sec. 11. Acts 1901, ch. 202, sec. 2. Acts 1903, ch. 145, sec. 9. Acts 1905, ch. 167, secs. 51, 79, 86. Acts 1913, ch. 330, sec. 1. Acts 1921, ch. 95. Acts 1933, ch. 19, sec. 2.

¹⁸⁵ Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, sec. 22. Acts 1839-40 (general), ch. 4, sec. 10. Rev. Stat. 1843, ch. 4, secs. 27, 160; ch. 5, sec. 71. 1 Rev. Stat. 1852, ch. 102, secs. 1-4.

¹⁸⁶ Acts 1853, ch. 106, sec. 6 (1). Acts 1855, ch. 86, sec. 146. Acts 1861, ch. 41, sec. 32. Acts 1865, ch. 1, sec. 33. Acts 1873, ch. 25, sec. 2.

¹⁸⁷ Rev. L. 1831, ch. 90, secs. 1, 23. Acts 1832-33, ch. 46, sec. 1; ch. 70, secs. 4, 25. Rev. Stat. 1838, ch. 21, sec. 25; ch. 94 (2), sec. 2; ch. 98, secs. 1, 28. Acts 1840-41 (general), ch. 11(2), sec. 2. Rev. Stat. 1843, ch. 14, sec. 31. 1 Rev. Stat. 1852, ch. 97.

¹⁸⁸ Rev. L. 1831, ch. 81, secs. 17, 18. Acts 1835-36 (general), ch. 7, secs. 32, 35. Acts 1840-41 (general), ch. 4, secs. 1, 13-22.

¹⁸⁹ Rev. L. 1831, ch. 50, sec. 6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 37, sec. 7. 1 Rev. Stat. 1852, ch. 55, sec. 1.

The power to appoint tobacco inspectors was transferred to the judge of the circuit court in 1857. Acts 1857; Burns 67-308; Baldwin 9461.

¹⁹⁰ Rev. L. 1831, ch. 21, secs. 1, 6. Rev. Stat. 1838, ch. 22, secs. 1, 6. Acts 1840-41 (general), ch. 4, secs. 1, 34.

¹⁹¹ Acts 1867, ch. 51, sec. 2. Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

pauper children were kept (1881 to 1936),¹⁹² and township agents to disburse money for certain relief to soldiers, sailors, marines, and their families (1865 and 1866).¹⁹³

Formerly the board of commissioners drew orders on the county treasurer and had them attested by the clerk of the board (1836 to 1841);¹⁹⁴ required the making of tax lists by tax officials, received and corrected these lists, and reviewed tax assessments (1836 to 1841);¹⁹⁵ made all county tax levies and rates before 1899;¹⁹⁶ fixed the rate of dog tax from 1925 until 1937;¹⁹⁷ could levy a tax for maintenance of ditches and drains from 1915 until 1917;¹⁹⁸ authorized certain tax levies by township trustees (1859 to 1899);¹⁹⁹ granted certain exemptions from poll taxes (1836 to 1919),²⁰⁰ road taxes (1843 to 1853),²⁰¹ and property taxes (1849 to 1853);²⁰² directed tax officials to prepare, post, and distribute lists of delinquent taxes (1836 to 1853);²⁰³ charged

¹⁹² Acts 1881 (Spec. Sess.), ch. 81, sec. 8. Acts 1936 (Spec. Sess.), ch. 3, secs. 5, 24, 129.

¹⁹³ Acts 1865, ch. 40, secs. 8, 10, 16.

¹⁹⁴ Rev. L. 1831, ch. 21, sec. 15. Rev. Stat. 1838, ch. 21, sec. 15. Acts 1840-41 (general), ch. 2, sec. 11.

¹⁹⁵ Rev. L. 1831, ch. 20, sec. 9; ch. 81, secs. 5, 8, 14, 16, 27. Acts 1333-34, ch. 220, secs. 8, 9. Acts 1834-35 (general), ch. 11, secs. 18, 19, 23, 28. Acts 1835-36 (general), ch. 7, secs. 5, 7, 17, 18, 25, 28, 29. Acts 1836-37 (general), ch. 60, sec. 1. Acts 1838-39 (general), ch. 14, sec. 15; ch. 58, sec. 2. Acts 1840-41 (general), ch. 9, sec. 4.

¹⁹⁶ Rev. L. 1831, ch. 20, sec. 9; ch. 69, secs. 25, 27; ch. 81, secs. 2, 13. Rev. Stat. 1838, ch. 21, sec. 9; ch. 79, sec. 29. Rev. Stat. 1843, ch. 16, sec. 59; ch. 19, secs. 36, 43. Acts 1848-49 (general), ch. 109, sec. 60. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 21, 22, 28; ch. 81, secs. 29, 35. Acts 1861, ch. 95. Acts 1861 (Spec. Sess.), ch. 12, sec. 3. Acts 1875, ch. 7, sec. 4. Acts 1885 (Spec. Sess.), ch. 5. Acts 1895, ch. 96, sec. 12.

County council now has general power to make tax levies and rates. Acts 1899; Burns 26-515; Baldwin 5379.

¹⁹⁷ Acts 1925, ch. 144, sec. 1. Acts 1927, ch. 176, secs. 1, 14. Acts 1937, ch. 133, sec. 16.

¹⁹⁸ Acts 1915, ch. 107, sec. 23. Acts 1917, ch. 124, sec. 10.

¹⁹⁹ Acts 1859, ch. 133, sec. 8. Acts 1863, ch. 16, sec. 1. Acts 1865 (Spec. Sess.), ch. 28, sec. 20. Acts 1867, ch. 64. Acts 1873, ch. 99. Acts 1879 (Spec. Sess.), ch. 95, sec. 3. Acts 1881 (Spec. Sess.), ch. 63, sec. 3. Acts 1899, 1917; Burns 65-301; Baldwin 16102.

²⁰⁰ Rev. L. 1831, ch. 81, secs. 1, 2. Rev. Stat. 1838, ch. 21, sec. 36. Rev. Stat. 1843, ch. 7, sec. 33. 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). Op. Atty. Gen. 1936, p. 83.

²⁰¹ Rev. Stat. 1843, ch. 16, sec. 102. Acts 1848-49 (general), ch. 109, sec. 100. Acts 1849-50 (general), ch. 224, sec. 2. 1 Rev. Stat. 1852, ch. 102, sec. 9.

²⁰² Acts 1848-49 (general), ch. 106. 1 Rev. Stat. 1852, chs. 6, 92.

²⁰³ Rev. L. 1831, ch. 81, sec. 33. Acts 1843-44 (general), ch. 113. Acts 1846-47 (general), ch. 30, sec. 5. 1 Rev. Stat. 1852, ch. 92.

and remitted tax penalties (1836 to 1843);²⁰⁴ could make allowances to owners of property wrongfully seized, sold, or destroyed by any officer acting under the liquor laws (1859 to 1917);²⁰⁵ directed the administration of county poor relief (1836 to 1936);²⁰⁶ could provide and maintain a house for the accomodation of the children placed under the custody and control of the board of children's guardians (1901 to 1936);²⁰⁷ furnished record books to justices of the peace (1877 to 1899);²⁰⁸ audited the books and accounts of all officers handling county funds (1836 to 1909);²⁰⁹ audited the warrants of township trustees and reported thereon to the circuit court (1897 to 1899);²¹⁰ received reports from the

²⁰⁴ Rev. L. 1831, ch. 81, sec. 27. Rev. Stat. 1843, ch. 12, sec. 66.

²⁰⁵ Acts 1859, ch. 68. Acts 1917, ch. 4, secs. 26, 40.

²⁰⁶ Rev. L. 1831, ch. 69. Rev. Stat. 1838, ch. 79. Rev. Stat. 1843, ch. 19. 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81. Acts 1857, ch. 8. Acts 1889, ch. 78, sec. 3. Acts 1899, ch. 76; ch. 90, secs. 3, 6; ch. 154, sec. 33. Acts 1901, ch. 147. Acts 1903, ch. 144. Acts 1933, ch. 86. Acts 1936 (Spec. Sess.), ch. 3. Wayne Township v. Brown, 205 Ind. 437, 186 N. E. 841 (1933).

Children. Rev. L. 1824, ch. 72, sec. 6. Rev. Stat. 1838, ch. 79, secs. 6, 11. 1 Rev. Stat. 1852, ch. 81, secs. 28, 32; ch. 68, sec. 3. Acts 1873, ch. 119, secs. 1, 2. Acts 1881 (Spec. Sess.), ch. 81. Acts 1885 (Spec. Sess.), chs. 9, 34. Acts 1889, ch. 107, sec. 1. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1901, ch. 173, sec. 5. Acts 1903, ch. 247.

Insane. Acts 1817-18 (general), ch. 63, sec. 5. Rev. Stat. 1838, ch. 52, sec. 3. Rev. Stat. 1843, ch. 46, sec. 181. 1 Rev. Stat. 1852, ch. 81, sec. 8. Acts 1901, ch. 195.

Blind. Acts 1839-40 (general), ch. 51. Acts 1849-50 (general), ch. 13. Acts 1857, ch. 8.

Old-age pensions. Acts 1933, ch. 36 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

²⁰⁷ Acts 1901, 1919, 1923; Burns 22-2806; Baldwin 5689. Acts 1933; Burns 28-2207; Baldwin 4447. Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1121; Baldwin, 1937 suppl., 14078-22.

²⁰⁸ Acts 1877 (Spec. Sess.), ch. 23. Acts 1899, ch. 154, sec. 33.

²⁰⁹ Rev. L. 1831, ch. 69, sec. 26; ch. 75, sec. 7; ch. 85, sec. 8; ch. 86, secs. 50, 52; ch. 90, secs. 4, 20, 21. Rev. Stat. 1838, ch. 17, sec. 11; ch. 22, sec. 2; ch. 79, secs. 4, 27, 30; ch. 83, sec. 7; ch. 93, sec. 8; ch. 94(2), secs. 13, 15; (3), sec. 5; (5), sec. 21; (6), sec. 7; ch. 95, sec. 6; ch. 98, secs. 4, 7; ch. 107(2), sec. 1; (3), secs. 1, 3. Rev. Stat. 1843, ch. 7, secs. 14, 78; ch. 13, sec. 100; ch. 15, secs. 117-120; ch. 19, secs. 31, 32. Acts 1845-46 (general), ch. 48. 1 Rev. Stat. 1852, ch. 6, secs. 121, 122; ch. 81, secs. 22, 23 (repealed by Acts 1881 (Spec. Sess.), ch. 81, sec. 13); ch. 98, secs. 63, 65, 121-125. Acts 1859, ch. 133, sec. 14. Acts 1861, ch. 41, secs. 18, 149-151. Acts 1893, ch. 88, sec. 4; ch. 146, sec. 21. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. Acts 1865, 1873, 1883; Burns 28-2412, 28-2418 to 28-2420; Baldwin 6498, 5978 to 5980. Acts 1895; Burns 49-1409; Baldwin 7584. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

²¹⁰ Acts 1897, ch. 144. Acts 1899, ch. 105, sec. 7.

judge of the circuit court concerning his examination of the office of the clerk of the circuit court (1852 to 1909);²¹¹ received quarterly reports from the board of charities and corrections (1899 to 1936);²¹² selected grand jurors (1836 to 1881) and petit jurors (1836 to 1853);²¹³ received from justices of the peace and the clerk of the circuit court lists showing judgments of fines and the amounts collected thereon and paid to county treasurer (1836 to 1853);²¹⁴ provided blank forms for elections (1836 to 1881);²¹⁵ heard and decided election contests (1836 to 1933);²¹⁶ supervised the sale of town lots by the county agent, and assigned various other duties for him to perform as agent of the board (1836 to 1852);²¹⁷ awarded scholarships to Indiana University (1836 to 1919) and Purdue University (1877 to 1935);²¹⁸ approved official bonds of constables (1836 to 1855),²¹⁹ road superintendent (1831 to 1933),²²⁰ appraiser,²²¹ county assessor

²¹¹ 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439.

The examination of the clerk's office is now made by the State Examiner. Acts 1909; Burns 60-211; Baldwin 13862. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

²¹² Acts 1899, ch. 34, secs. 3, 4. Acts 1901, ch. 183, sec. 1. Acts 1936 (Spec. Sess.), ch. 3, sec. 22.

²¹³ Rev. L. 1831, ch. 53, secs. 1, 4, 5. Rev. Stat. 1838, ch. 57, secs. 1, 4, 5. Rev. Stat. 1843, ch. 50, secs. 1, 3, 4, 7, 10. 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24; ch. 4, sec. 2, p. 387. Acts 1875 (Spec. Sess.), ch. 12. Acts 1881, ch. 69, sec. 11.

²¹⁴ Rev. L. 1831, ch. 54, sec. 14; ch. 90, sec. 4. Rev. Stat. 1843, ch. 13, secs. 80-83. 1 Rev. Stat. 1852, ch. 92.

²¹⁵ Rev. L. 1831, ch. 32, secs. 1, 19. Rev. Stat. 1838, ch. 32, sec. 1. Rev. Stat. 1843, ch. 5, sec. 25. 1 Rev. Stat. 1852, ch. 31, sec. 11. Acts 1855, ch. 66. Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

²¹⁶ Rev. L. 1831, ch. 32, secs. 8, 9, 22, 23; ch. 58, sec. 1. Rev. Stat. 1838, ch. 32, secs. 34, 35. Rev. Stat. 1843, ch. 5, sec. 86. 1 Rev. Stat. 1852, ch. 31, secs. 16-23. Acts 1881 (Spec. Sess.), ch. 47, secs. 83, 84. Acts 1933, ch. 242.

²¹⁷ Rev. L. 1831, ch. 85, secs. 1, 2, 4, 7-9. Rev. Stat. 1838, ch. 93, secs. 4, 8, 9. Rev. Stat. 1843, ch. 18, secs. 11, 12, 17. Acts 1851-52, ch. 2, sec. 1. See the essay entitled "County Agent."

²¹⁸ Acts 1833-34, ch. 17. Acts 1834-35 (general), ch. 44, sec. 1. Rev. Stat. 1838, ch. 21, secs. 33, 34. Rev. Stat. 1843, ch. 7, sec. 34. Acts 1846-47 (general), ch. 39. 1 Rev. Stat. 1852, ch. 114, sec. 10. Acts 1877 (Spec. Sess.), ch. 29. Acts 1919, ch. 185, sec. 1. Acts 1935, ch. 184, secs. 1, 2.

²¹⁹ Rev. L. 1831, ch. 17, secs. 4, 5, 9, 21. Rev. Stat. 1838, ch. 19, secs. 4, 9. Rev. Stat. 1843, ch. 47, secs. 284, 288. Acts 1855, ch. 9.

²²⁰ Acts 1881 (Spec. Sess.), ch. 63, sec. 2. Acts 1889, ch. 85, sec. 8; ch. 234, sec. 11. Acts 1901, ch. 202, sec. 2. Acts 1905, ch. 167, secs. 51, 67. Acts 1913, ch. 330, sec. 1. Acts 1921, ch. 95, sec. 1. Acts 1933, ch. 19, sec. 2.

²²¹ Acts 1840-41 (general), ch. 1, secs. 2, 20. Acts 1858 (Spec. Sess.), ch. 2.

(1836 to 1852, 1872 to 1875), and township assessors (1826 to 1881);²²² could authorize the release or substitution of sureties on the official bonds previously approved by the board of commissioners (1836 to 1843);²²³ could authorize the county auditor to employ an administrator of the school fund, and was required to approve the official bond of such administrator (1836 to 1937);²²⁴ could authorize the creation of horse thief detective associations, and could expel members therefrom (1852 to 1907);²²⁵ could authorize designated members of horse thief detective associations to exercise certain powers of constables (1907 to 1933);²²⁶ could allow rewards for the apprehension of horse thieves (1836 to 1853);²²⁷ could authorize the incorporation of cemetery associations (1875 to 1939);²²⁸ assisted in the organization of agricultural societies (1836 to 1843);²²⁹ allowed damages to owners of livestock killed or injured by wolves (1841 to 1843)²³⁰ or dogs (1841 to 1843, 1925 to 1937);²³¹ directed the distribution of funds derived from the sale of estrays and driftage, on receiving proof of ownership (1836 to 1843);²³² directed the liquidation of property donated in the county for the colonization of negroes and mulattoes (1852 to 1865);²³³ ordered the county treasurer to distribute the unexpended

²²² Rev. L. 1824, ch. 86, sec. 5. Rev. Stat. 1843, ch. 7, secs. 58, 62. Acts 1851-52, ch. 6, sec. 2; ch. 7, secs. 66-68. Acts 1872 (Spec. Sess.), ch. 37, sec. 107. Acts 1875, ch. 97, secs. 2, 7, 9. Acts 1881 (Spec. Sess.), ch. 96, sec. 106.

²²³ Acts 1833-34, ch. 221. Acts 1834-35 (general), ch. 27, secs. 1-3. Rev. Stat. 1838, ch. 15, secs. 1, 2; ch. 76. Rev. Stat. 1843, ch. 4, secs. 101-135.

²²⁴ Acts 1935, ch. 273. Acts 1939, ch. 153.

²²⁵ 1 Rev. Stat. 1852, ch. 51, sec. 2. Acts 1865 (Spec. Sess.), ch. 95, sec. 4. Acts 1891, ch. 81, sec. 1. Acts 1907, ch. 144. Acts 1933, ch. 239.

²²⁶ Acts 1907, ch. 144, sec. 8. Acts 1933, ch. 239.

²²⁷ Acts 1832-33, ch. 52. Rev. Stat. 1838, ch. 21 (second act). Rev. Stat. 1843, ch. 7, sec. 24. 1 Rev. Stat. 1852, ch. 51.

²²⁸ Acts 1875, ch. 11, secs. 1, 2. Acts 1879 (Spec. Sess.), ch. 13. Acts 1939, ch. 142, sec. 29.

²²⁹ Acts 1834-35 (general), ch. 70, sec. 4. Rev. Stat. 1838, ch. 2 (second act), secs. 1, 4, 10. Rev. Stat. 1843, ch. 25.

²³⁰ Acts 1840-41 (general), ch. 61, sec. 5. Rev. Stat. 1843, ch. 59, sec. 4.

²³¹ *Ibid.* Acts 1925, ch. 144, secs. 9, 10. Acts 1927, ch. 176, sec. 14. Acts 1929, ch. 58, sec. 1. Acts 1937, ch. 133, secs. 9, 16.

²³² Const. 1816, art. 12, sec. 4. Rev. L. 1831, ch. 35, secs. 8, 9. Rev. Stat. 1838, ch. 37, secs. 8, 10. Rev. Stat. 1843, ch. 21, sec. 20.

²³³ 1 Rev. Stat. 1852, ch. 18, sec. 4. Acts 1865, ch. 17.

portion of the 3 percent fund to the trustees of the several townships;²³⁴ approved privately owned homes for friendless women, to be used as places of detention under court commitments (1867 to 1869);²³⁵ could authorize the construction of private bridges with authority to charge tolls (1836 to 1929);²³⁶ could authorize toll-road companies to locate, lay out, and construct roads (1848 to 1929);²³⁷ could fix toll-bridge rates (1836 to 1929);²³⁸ granted brokers' licenses (1841 to 1853)²³⁹ and liquor licenses (1836 to 1918);²⁴⁰ granted tavern licenses with privilege to sell liquor (1836 to 1853);²⁴¹ could order special elections under local option liquor laws (1908 to 1917);²⁴² granted licenses to sell foreign and domestic merchandise with privilege to sell liquor (1836 to 1853);²⁴³ approved all bonds required in connection with licenses granted by the board;²⁴⁴ and fixed the amount of license fees on various licenses (1836 to 1917).²⁴⁵

²³⁴ Acts 1881 (Spec. Sess.), ch. 102, sec. 1.

²³⁵ Acts 1867, ch. 122, secs. 1, 3. Acts 1869 (Spec. Sess.), ch. 32, secs. 1, 15-18.

²³⁶ Rev. L. 1831, ch. 82, sec. 68. Rev. Stat. 1838, ch. 91, sec. 63. Rev. Stat. 1843, ch. 16, sec. 65. Acts 1848-49 (general), ch. 109, sec. 66. Acts 1855, ch. 5, sec. 8. Acts 1859, ch. 14, sec. 1, 9. Acts 1929, ch. 215, sec. 73.

²³⁷ Acts 1848-49 (general), ch. 97, sec. 4; ch. 98. 1 Rev. Stat. 1852, ch. 80, sec. 4. Acts 1929, ch. 215, sec. 73.

²³⁸ Rev. L. 1831, ch. 26, sec. 43. Rev. Stat. 1838, ch. 41, sec. 10; ch. 91, sec. 63. Rev. Stat. 1843, ch. 16, secs. 65, 67. Acts 1859, ch. 14, sec. 9. Acts 1875, ch. 8, sec. 7. Acts 1929, ch. 215, sec. 73.

²³⁹ Acts 1840-41 (general), ch. 5, sec. 6. Acts 1841-42 (general), ch. 91. Rev. Stat. 1843, ch. 12, secs. 165, 175. 1 Rev. Stat. 1852, ch. 65, secs. 1-3.

²⁴⁰ Rev. L. 1831, ch. 81, sec. 50; ch. 105, sec. 19. Rev. Stat. 1838, ch. 105, sec. 1. Rev. Stat. 1843, ch. 25, sec. 27; ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92, sec. 1 (19). Acts 1853, ch. 66, secs. 3, 8. Acts 1855, ch. 105, secs. 4, 5; ch. 106, sec. 1. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130. Acts 1861, ch. 72. Acts 1873, ch. 59. Acts 1875 (Spec. Sess.), ch. 13. Acts 1889, ch. 148. Acts 1895, ch. 127. Acts 1897, ch. 167. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-5. Acts 1913, ch. 152. Acts 1915, ch. 10. Acts 1917, ch. 4, secs. 6, 7; ch. 80.

²⁴¹ Rev. L. 1831, ch. 81, sec. 50. Rev. Stat. 1838, ch. 105, sec. 1. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92.

²⁴² Acts 1808 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 1. Acts 1917, ch. 4, sec. 40.

²⁴³ Rev. L. 1831, ch. 81, sec. 50. Rev. Stat. 1838, ch. 105, sec. 4; ch. 108, sec. 19. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92.

²⁴⁴ See the authorities cited in connection with the granting of licenses.

²⁴⁵ Rev. L. 1831, ch. 21, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7; ch. 105, sec. 6. Rev. Stat. 1843, ch. 12, sec. 171; ch. 59, sec. 13. 1 Rev. Stat. 1852, ch. 65, secs. 1, 2. Acts 1857, ch.

The board of commissioners has always had the power to establish, construct, and maintain roads,²⁴⁶ except that from 1879 until 1913 the board of commissioners was an ex officio board of directors for the maintenance of county roads (known as "Board of Turnpike Directors" from 1879 to 1901 and as "Board of Directors" from 1901 to 1913). This board divided the county into three districts, and each director had personal supervision of one district.²⁴⁷ Since 1913 the surveyor, county highway superintendent (1913 to 1933), and county highway supervisor (1933 to date), acting under the control of the board of commissioners, have had charge of the construction and maintenance of county highways.²⁴⁸

The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.²⁴⁹ Whenever, in the trial of any cause, two or more members of the board are disqualified, the judge of the circuit court appoints special commissioners to act in their places.²⁵⁰ During any session of the board and while going to and returning from the same, members of the board of commissioners are privileged from arrest and from obeying any subpoena to testify.²⁵¹

Though appeals may be taken to the circuit court to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.²⁵² Appeals are specifically provided for in proceedings

43. Acts 1917, ch. 50. See citations in footnotes in connection with the granting of licenses.

²⁴⁶ See footnote 27 herein.

²⁴⁷ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1895, ch. 147. Acts 1899, ch. 176, secs.

1, 2. Acts 1901, ch. 202. Acts 1905, ch. 167, sec. 85. Acts 1913, ch. 330, sec. 1.

²⁴⁸ Acts 1901, ch. 228. Acts 1911, ch. 105. Acts 1913, ch. 40, sec. 1; ch. 330, sec. 1. Acts 1921, ch. 95. Acts 1932 (Spec. Sess.), chs. 32, 34. Acts 1933, ch. 19. Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708. See the essays entitled "Surveyor" and "County Highway Supervisor."

²⁴⁹ Rev. Stat. 1843, ch. 7, sec. 8. 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

²⁵⁰ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

²⁵¹ Rev. L. 1824, ch. 78, sec. 3. Rev. Stat. 1843, ch. 52, sec. 5. 1 Rev. Stat. 1852; Burns 3-401; Baldwin 721.

²⁵² Rev. L. 1831, ch. 20, sec. 28; ch. 38, sec. 12. Rev. Stat. 1838, ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. State ex rel. Starry v. Board of County Comrs., 136 Ind. 207, 35 N. E. 1100 (1893); State ex rel. Sink v. Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

concerning claims against the county,²⁵³ relocation of the county seat,²⁵⁴ licensing of public ferries,²⁵⁵ drainage assessments,²⁵⁶ establishment or modification of townships,²⁵⁷ and in road matters.²⁵⁸

The auditor, as clerk of the board, attends its meetings, keeps a record of its proceedings, and preserves in his office all the books and papers touching the business of the county.²⁵⁹ Copies of the proceedings of the board, when signed and sealed by the auditor, are sufficient evidence thereof on the trial of any cause in any of the courts of this State.²⁶⁰

PROCEEDINGS AND REPORTS

1. COMMISSIONERS' DOCKET, 1871-July 24, 1934. 8 vols. (1-8). Title varies: Bench Docket, Commissioners' Court, 1880-Nov. 1898, 3 vols.

Record of causes filed in commissioners' court, showing date of filing, number and nature of cause, names of principals, and action taken. Arr. numer. by cause no. No index. Hdw.

²⁵³ 1 Rev. Stat. 1852, ch. 3, secs. 9, 10. Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

²⁵⁴ Acts 1879, ch. 15. Acts 1885 (Spec. Sess.); Burns 26-410; no Baldwin.

²⁵⁵ 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

²⁵⁶ Acts 1873, ch. 66, sec. 21. Acts 1881 (Spec. Sess.), ch. 44, secs. 17, 18. Acts 1891, ch. 196, sec. 6. Acts 1901, ch. 235, sec. 3. Acts 1905, ch. 157, sec. 9. Acts 1907, ch. 252, sec. 17. Acts 1913, ch. 165, sec. 21. Acts 1917, ch. 124, sec. 3. Acts 1933, ch. 264, secs. 17, 81.

²⁵⁷ Acts 1859, 1939, 1941; Burns, 1941 suppl., 26-701; Baldwin, 1941 suppl., 16055. State ex rel. Sink v. Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

²⁵⁸ Acts 1848-49 (general), ch. 109, secs. 56, 57. 1 Rev. Stat. 1852, ch. 48, secs. 26, 37. Acts 1867, ch. 86, sec. 6. Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1885 (Spec. Sess.), ch. 57, secs. 13, 14. Acts 1889, ch. 85, sec. 12; ch. 192, sec. 3; ch. 234, sec. 16. Acts 1899, ch. 176, sec. 1. Acts 1903, ch. 145, sec. 14; ch. 165, sec. 1. Acts 1905, ch. 167, secs. 56, 123. Acts 1913, ch. 159, sec. 2. Acts 1919, ch. 112, sec. 9. Acts 1921, ch. 262, secs. 13, 14, 18. Acts 1933, ch. 27, sec. 8.

²⁵⁹ Acts 1840-41 (general), ch. 2, sec. 8. Rev. Stat. 1843, ch. 7, secs. 5, 15-17, 53. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

Docketing claims. Acts 1897; Burns 26-806; Baldwin 5256.

Substitute for auditor. 1 Rev. Stat. 1852; Burns 49-3016; Baldwin 5430.

The clerk of the circuit court served as clerk of the board of commissioners until the creation of the office of auditor in 1841. Rev. L. 1831, ch. 20, secs. 6, 15. Rev. Stat. 1838, ch. 21, sec. 6. Acts 1840-41 (general), ch. 2.

²⁶⁰ Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 9. Acts 1859, ch. 59, sec. 1. 1 Rev. Stat. 1852; Burns 26-622; Baldwin 5232.

250 pp. 18 x 12 x 2. 6 vols., 1871-Dec. 2, 1898, bookroom 1; 1 vol., Dec. 3, 1898-June 1, 1911, aud. vt.; 1 vol., Sept. 14, 1911-July 24, 1934, aud. off.

2. COMMISSIONERS' RECORD, 1836-. 21 vols. (A-U).

Minutes of meetings of board of commissioners, showing date and place of meeting, names of members present, subjects discussed, and action taken. Also contains: Claim and allowance docket, 1836-60, entry 12; gravel road record, 1836-1911, entry 15; commissioners' road docket, 1928-, entry 16; commissioners' ditch record, 1836-79, entry 19; and minutes of board of finance, 1907-, entry 222. Arr. chron. by date of meeting. Indexed alph. by subjects discussed. Hdw. 1836-Oct. 18, 1901; typed Nov. 4, 1901-. 600 pp. 18 x 13 x 3. 19 vols., 1836-1920, aud. vt.; 2 vols., 1921-, aud. off.

3. [ARMEY DITCH], June 8, -Aug. 3, 1899, Jan. 4, 1932- Jan. 4, 1934. 3 vols.

Record of proceedings in reconstruction and repair of Armeay Ditch, showing name and address of property owner, location and description of land, amount of cash or deferred payment, dates of proceedings and assessment due, and total amount of assessment. Arr. alph. by name of property owner. For index, see entry 4. Hdw. 125 pp. 18 x 12 x 1. 1 vol., June 8, -Aug. 3, 1899, bookroom 2; 2 vols., 1932-Jan. 4, 1934, aud. off.

4. INDEX [to Armeay Ditch], June 8, -Aug. 3, 1899, Jan. 4, 1932-Jan. 4, 1934. 1 vol.

Index to Armeay Ditch, entry 3, showing name of township, section and range numbers, and volume and page reference to recording. Arr. numer. by t. and range nos. Hdw. 80 pp. 18 x 15 x 1/2. Aud. vt.

5. INDEX, 1836-May 1936. 1 vol.

Index to commissioners' court papers, entry 6; commissioners' summonses, 1882-May 1936, entry 7; bids on bonds, July 5, 1920-May 1936, entry 9; county contracts, 1899-May 1936, entry 11; bridge plans and specifications, 1899-May 1936, entry 17; ditch petitions, 1870-May 1936, entry 21; and road petitions, 1846-May 1936, entry 25, showing title of document, date of filing, and file box reference. Arr. alph. by title of document. Hdw. 250 pp. 16 x 12 x 1 1/2. Aud. off.

6. [COMMISSIONERS' COURT PAPERS], 1836-. 257 f. b. (numbered irregularly).

Original documents filed in commissioners' court, consisting

of: petitions, remonstrances, reports and appointments, showing dates of document and filing, names of principals, nature and number of document, and action taken. Also contains: county contracts, 1836-98, entry 11. Arr. chron. by date of filing. For index 1836-May 1936, see entry 5; no index, June 1936-. Hdw. 1836-1919; hdw. and typed 1920-. 10 x 5 x 15. 217 f. b., 1836-1933, aud. vt.; 40 f. b., 1934-, aud. off.

7. COMMISSIONERS' SUMMONS, 1882-. 3 f. b. (124-126). Summonses issued by auditor on members of board of commissioners to appear for special meeting, showing date and purpose of meeting, dates of summons and sheriff's return, name of member, and amount of sheriff's fee. Arr. chron. by date of summons. For index 1882-May 1936, see entry 5; no index, June 1936-. Hdw. 1882-Apr. 28, 1916; typed May 7, 1916-. 10 x 5 x 15. 2 f. b., 1882-1912, aud. vt.; 1 f. b., 1913-, aud. off.

BOND ISSUES

8. BOND REGISTER, 1913-. 2 vols. (1, 2). Record of bond issues, showing date, nature, number, and amount of bond; title of bond issue; total amount of issue; interest rate; amount and number of coupons; names of commissioners and purchasers; dates of maturity and redemption; and number and amount of bonds redeemed and outstanding. Arr. chron. by date of bond. Indexed alph. by title of bond issue. Hdw. 350 pp. 13 x 13 x 2. Aud. vt.

9. BIDS ON BONDS, July 5, 1920-. 1 f. b. Bids submitted for purchases of bond issues, showing date and amount of bid; date, amount, number, and nature of bond issue; and name and address of bidder. Arr. chron. by date of bid. For index July 5, 1920-May 1936, see entry 5; no index, June 1936-. Typed. 10 x 5 x 15. Treas. vt.

BIDS AND CONTRACTS

(See also entry 9)

10. BIDDERS' RECORD, 1935-. 1 vol. Record of bids submitted for repair of gravel roads, showing dates of publication and opening of bids; names and addresses of all bidders and successful bidder; quantity, purpose, description, and unit price of bid; and volume and page

reference to commissioners' record, entry 2. Arr. chron. by date of bid. No index. Hdw. 600 pp. 14 x 14 x 4. Aud. off.

11. COUNTY CONTRACTS, 1899-. 8 f. b. (labeled irregularly). 1836-98 in [Commissioners' Court Papers], entry 6.

Contracts for construction, repairs, improvements, supplies, materials, and services for county projects and institutions, showing date, nature, and terms of contract; date of expiration; and name and address of contractor. Arr. chron. by date of contract. For index 1899-May 1936, see entry 5; no index, June 1936-. Hdw. 1899-Nov. 22, 1910; typed Nov. 23, 1910-. 10 x 5 x 15. 4 f. b., 1899-Nov. 20, 1915, aud. vt.; 4 f. b., Dec. 20, 1915-, aud. off.

CLAIMS AND ALLOWANCES

12. CLAIM AND ALLOWANCE DOCKET, 1861-. 12 vols. (J-O; 1 vol. unlabeled; 1-5). Title varies: Register of Allowances, 1861-97, 6 vols. 1836-60 in Commissioners' Record, entry 2.

Record of claims filed and allowances made, showing date, nature, and amount of claim; dates of filing and allowance; appropriation and warrant numbers; and name of claimant. Arr. chron. by date of allowance. No index. Hdw. 300 pp. 18 x 12 x 2½. 7 vols., 1861-1910, bookroom 1; 5 vols., 1911-, aud. off.

13. COMMISSIONERS' CLAIMS, 1836-. 208 f. b. (numbered irregularly).

Original claims allowed by board of commissioners, showing date, nature, number, and amount of claim; name of claimant; appropriation and warrant numbers; and date of filing. Arr. chron. by date of filing. No index. Hdw. 1836-June 1909; hdw. and typed July 1909-. 10 x 5 x 15. 44 f. b., 1836-1922, aud. vt.; 164 f. b., 1923-, aud. off.

14. BURIAL RECORD, SOLDIERS, SAILORS AND MARINES, 1862-. 1 vol.

Record of expenditures for burial of soldiers, sailors, and marines, showing dates of enlistment, discharge, and death; name, age, rank, and occupation of deceased; place of interment; and date, number, and amount of warrant. Arr. chron. by date of warrant. Indexed alph. by name of decedent. Hdw. 250 pp. 18 x 13 x 2. Aud. off.

PUBLIC IMPROVEMENTS

(See also entry 3).

15. GRAVEL ROAD RECORD, 1912-. 9 vols. (1-9). Title varies: Complete Record Gravel Roads, 1912-22, 4 vols. 1836-1911 in Commissioners' Record, entry 2. Record of actions and proceedings pertaining to construction and repair of county roads, showing names of petitioners, road, township, engineer, and contractor; dates of meeting, appointment, and viewers report; type of road construction or repair; proof of publication; general specifications; notice to contractor; and date, conditions, and amount of contract. Arr. chron. by date of meeting. Indexed alph. by name of petitioner. Typed. 600 pp. 18 x 13 x 3. Aud. off.

16. COMMISSIONERS' ROAD DOCKET, 1837-1927. 10 vols. (1-10). Title varies: Road Record, 1837-May 10, 1906. 1928- in Commissioners' Record, entry 2. Transcripts of instruments pertaining to the construction and improvement of roads, covering petitions, remonstrances, viewer's and engineer's reports, engineer's estimates, bids, contracts, specifications, contractor's bonds, and original publication notices, showing date and nature of instrument, names of road and principals, cost of construction or improvement, description and location of road, action taken, and volume and page reference to commissioners' record, entry 2. Arr. chron. by date of instrument. Indexed alph. by name of road. Hdw. 446 pp. 18 x 12 x 3. Aud. vt.

17. BRIDGE PLANS AND SPECIFICATIONS, 1899-. 12 f. b. (numbered irregularly). Original plans, specifications, estimates, and contracts for construction and repair of county bridges, showing date of instrument, name and location of bridge, date and estimated cost of construction, name of contractor, and amount and conditions of contract. Arr. chron. by date of instrument. For index 1899-May 1936, see entry 5; no index, June 1936-. Hdw. 10 x 5 x 15. 7 f. b., 1899-1914, aud. vt.; 5 f. b., 1915-, aud. off.

18. BRIDGE SPECIFICATIONS, 1932. 4 vols. Plans and specifications for construction of Sellers, Sweisberger, William Daniels, and Garner bridges approved by board of commissioners. No obvious arr. No index. Blueprints. 4 pp. 10 x 17 x 1/2. Aud. off.

19. COMMISSIONERS' DITCH RECORD, 1880-. 10 vols. (1-10). 1836-79 in Commissioners' Record, entry 2.

Transcripts of all proceedings pertaining to construction of ditches and drains, consisting of petitions, general specifications, bonds for costs and construction, order and notice to viewers, notice of hearing, bids, contract for construction, and proof of publication, showing date and nature of petition; date of proceedings; names of petitioners, ditch or drain, and contractor; location and description of land; amount of construction bond; and date and terms of contract. Also contains: commissioners' ditch docket, 1836-1916, 1929-, entry 20; ditch viewers' reports, 1880-90, 1908-, entry 22; and record of cost and repair of ditches, 1884-, entry 24. Arr. chron. by date of proceeding. Indexed alph. by name of ditch or drain. Hdw. 1880-Apr. 6, 1916; typed Apr. 7, 1917-. 285 pp. 18 x 13 x 3. Surv. off.

20. COMMISSIONERS' DITCH DOCKET, 1917-28. 1 vol. 1836-1916, 1929- in Commissioners' Ditch Record, entry 19.

Record of actions and proceedings for construction, cleaning, and repair of ditches and drains, showing date and nature of petition, names of petitioners and ditch or drain, location of ditch or drain, dates of remonstrance and proceedings, and action taken. Arr. chron. by date of proceedings. Indexed alph. by name of ditch or drain. Hdw. 300 pp. 18 x 12 x 2. Aud. off.

21. DITCH PETITIONS, 1870-. 20 f. b. (numbered irregularly).

Original petitions for construction, cleaning, and repair of ditches and drains, showing date and nature of petition, names and addresses of petitioners, location of ditch or drain, and action taken. Arr. chron. by date of petition. For index 1870-May 1936, see entry 5; no index, June 1936-. Hdw. 1870-1900; typed 1901-. 16 f. b., 1870-Nov. 4, 1925, aud. vt.; 4 f. b., Jan. 4, 1926-, aud. off.

22. DITCH VIEWERS, 1891-Aug. 1907. 54 vols. 1880-90, 1908- in Commissioners' Ditch Record, entry 19.

Transcripts of ditch viewers' reports on construction and repair of ditches, showing dates of appointment and report, names of ditch and viewers, location and description of ditch and land benefited, and estimated cost. Arr. chron. by date of report. No index. Hdw. 75 pp. 18 x 12 x 1/4. Book-room 1.

23. DITCH COMMISSIONERS' CASH BOOK, 1882-Feb. 16, 1887.
1 vol.

Record of assessments collected and payments made for labor in construction and repair of ditches, showing date, nature, and amounts of collection and payment, and names of payer and payee. Arr. chron. by date of collection and payment. No index. Hdw. 300 pp. 19 x 12 x 3. Surv. off.

24. DITCH REGISTER, 1876-83. 1 vol. 1884- in Commissioners' Ditch Record, entry 19.

Record of cost of construction and repair of ditches, showing date and cost of construction or repair, names of ditch and landowner, location of ditch and property benefited, amount of assessment, date assessment paid, and volume and page reference to commissioners' record, entry 2. Arr. by name of ditch. No index. Hdw. 237 pp. 18 x 13 x 3. Aud. vt.

25. ROAD PETITIONS, 1846-. 24 f. b. (numbered irregularly).

Petitions for construction and repair of gravel roads, showing date and nature of petition, names and addresses of petitioners, and location of road. Arr. chron. by date of petition. For index 1846-May 1936, see entry 5; no index, June 1936-. Hdw. 1846-1909; typed 1910-. 10 x 5 x 15. 21 f. b., 1846-1929, aud. vt.; 3 f. b., 1930-, aud. off.

26. DITCH EXPENSES, 1861-. 2 f. b.

Contains:

- i. Commissioners' orders for payment of expenses incurred in ditch construction and repair, showing date, number, and amount of order; warrant number; and names of ditch, payee, and commissioner.
- ii. Proofs of publication, showing dates of affidavit and publication of notice, names of newspaper and affiant, and clipping of newspaper notice.

Arr. chron. by date of instrument. No index. Hdw. 10 x 5 x 15. 1 f. b., 1861-1926, aud. vt.; 1 f. b., 1927-, aud. off.

LIQUOR LICENSES

27. REGISTER OF [Alcoholic] LICENSE[s], 1859-92. 3 vols. Record of licenses issued to retail alcoholic beverages, showing date, number, expiration, and conditions of license; name and address of applicant; location of business; and amount of license fee. Arr. chron. by date of license. No index. Hdw. 100 pp. 17 x 14 x 2. Bookroom 2.

II. COUNTY COUNCIL

EVOLUTION AND STRUCTURAL ORGANIZATION

The county council has existed in Marshall County ever since 1899 under the requirements of an act of 1899, commonly referred to as the County Reform Law.¹ The council is composed of seven members. Each councilman is elected for a term of 4 years and holds his office until his successor has been elected and qualified. The county is divided by the board of commissioners into four councilmanic districts, and one councilman is elected by the voters of each district. Three councilmen at large are elected by the voters of the whole county.² Each councilman receives a certificate of election from the clerk of the circuit court and is not commissioned by the Governor.³ Members of the first council were appointed in 1899 by the judge of the circuit court.⁴ The county auditor, in person or by deputy, serves as clerk of the county council.⁵ At an organization meeting held on the second Saturday after its election, the council chooses from its members a presiding officer and a presiding officer pro tem, who serve for the terms of their respective offices as councilmen.⁶

Each member must have been an inhabitant of the county during 1 year next preceding the date of his election or appointment. A councilman at large must be a qualified voter and resident freeholder of the county; and each of the other members must be a qualified voter and resident freeholder of the district from which he was elected or appointed. No person can hold the office of councilman while holding any other county office or any State, township, or municipal office.⁷ Each councilman must take an oath that he will support the State and Federal Constitutions and that he will faithfully and honestly perform his duties as councilman.⁸

A councilman receives a salary of \$10 per year plus \$10

¹ Acts 1899; Burns 26-501; Baldwin 5365.

² Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-502, 26-505; Baldwin 5366, 5369.

³ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

⁴ Acts 1899; Burns 26-548; no Baldwin.

⁵ Acts 1899; Burns 26-509; Baldwin 5373.

⁶ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

⁷ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6. Acts 1899; Burns 26-504; Baldwin 5368.

State ex rel. Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133 (1909). Op. Atty. Gen. 1936, p. 412.

⁸ Const. 1851, art. 15, sec. 4. Acts 1899; Burns 26-506; Baldwin 5370. 1 Rev. Stat. 1852: Burns 49-101; Baldwin 13054.

for each day served at special meetings of the council.⁹ Before 1927 there was no additional compensation for serving at special meetings.¹⁰ From 1899 until 1933 the auditor was entitled to a suitable annual allowance by the county council in an amount not less than \$200 nor more than \$600 (in addition to his regular salary), for his services as clerk of the county council; but since 1933 his annual salary as county auditor has been compensation for his regular duties and also his duties as clerk of the county council.¹¹

For sufficient legal causes any councilman may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹² If any councilman is convicted of a felony the judgment of conviction must declare his office vacant.¹³ The county council has the power to expel any councilman for disability, ineligibility, neglect to perform the duties of his office, or violation of official duties.¹⁴ Any vacancy in the membership of the council is filled through appointment by the remaining members of the council at a special meeting held for that purpose. A person appointed to fill such vacancy holds office until the expiration of the term in which such vacancy occurred and until his successor is elected and qualified.¹⁵

The purpose of the General Assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.¹⁶ Before 1899 the board of commissioners performed the duties now performed by the council.¹⁷

⁹ Acts 1899, 1927; Burns 26-503; Baldwin 5367.

¹⁰ Acts 1899, ch. 154, sec. 3.

¹¹ Acts 1899; Burns 26-509, 26-550; Baldwin 5373, 5221. Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 26-504; Baldwin 5368. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Acts 1899; Burns 26-504, 26-512; Baldwin 5368, 5376.

¹⁵ Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-505; Baldwin 5369.

¹⁶ Acts 1899; Burns 26-529; Baldwin 5393. Snider v. State ex rel. Leap, 206 Ind. 474, 190 N. E. 178 (1934).

¹⁷ Rev. L. 1831, ch. 20, sec. 9. Rev. Stat. 1838, ch. 21, sec. 9, Rev. Stat. 1843, ch. 12, sec. 43. Acts 1851-52, ch. 7, sec. 1. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16-18, 21, 22; ch. 81, secs. 29, 35. Acts 1859, ch. 133, sec. 8. Acts 1861, ch. 95. Acts 1863, ch. 16, sec. 1. Acts 1865, ch. 39, secs. 4-7. Acts 1867, ch. 64. Acts 1875, ch. 7, sec. 4. Acts 1881, ch. 63, sec. 27.

FUNCTIONS AND RECORDS

The county council makes appropriations of money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates, sets a township tax rate to cover cost of assessment of township taxes,¹⁸ authorizes the borrowing of money for the county,¹⁹ authorizes the county to purchase, sell, or convey real estate of the value of \$1,000 or more,²⁰ fixes the amounts of salaries of deputy officers and other assistants of county officers;²¹ and appoints a member of the local alcoholic beverage board.²² In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.²³ Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment or the State Board of Tax Commissioners.²⁴ In mandamus proceedings the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact the condition has been performed.²⁵ The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the State Board of Tax Commissioners; and no bonds or notes bearing interest greater than 5 percent

¹⁸ Acts 1899, 1931; Burns 26-507, 26-515, 26-519, 26-520; Baldwin 5371, 5379, 5383, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1841 suppl., 26-522; Baldwin, 1935 suppl., 5386. Op. Atty. Gen. 1937, p. 434 (welfare funds).

Special assignments by city against county property. Acts 1917; Burns 48-3330; Baldwin 5571. Acts 1923; Burns 48-3409; Baldwin 14623.

¹⁹ Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

²⁰ Acts 1903; Burns 22-3201; Baldwin 4507. Acts 1899; Burns 26-534; Baldwin 5399.

²¹ Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² Acts 1935, 1937, 1941; Burns, 1941 suppl., 12-402; Baldwin, 1941 suppl., 3764-6(13).

²³ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

²⁴ Acts 1937; Burns, 1941 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735. O'Rourke v. Board of County Comrs. 215 Ind. 195, 18 N. E. (2d) 380 (1939).

²⁵ Acts 1899; Burns 26-528; Baldwin 5392. State ex rel. Simpson v. Meeker, 182 Ind. 240, 105 N. E. 906 (1914); State ex rel. Test v. Steinwedel, 203 Ind. 457, 180 N. E. 865 (1932); Blue v. State ex rel. Powell, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

per annum can be issued without the approval of said board.²⁶

The county council and the board of commissioners, acting together, approve the acceptance of lands given or devised to the county for purposes of a public forest;²⁷ hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;²⁸ determine, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;²⁹ and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.³⁰

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase for less than par any bond, warrant, claim, or demand against the county.³¹

The county council holds a regular annual meeting on the first Tuesday after the first Monday in September of each year. Special meetings may be called by the auditor or a majority of the members of the council.³² The sessions are open to the public and may continue until all business is completed.³³ A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.³⁴ A greater vote is required in order to expel a member (two-thirds),³⁵ adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),³⁶ adopt appropriations at a special meeting (two-thirds),³⁷ and to levy taxes for the maintenance of county

²⁶ Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332, 64-1333; Baldwin 15736, 15737. *Citizens Bank v. Burnettsville*, 98 Ind. App. 92, 179 N. E. 724 (1932).

²⁷ Acts 1929; Burns 32-105; Baldwin 4879.

²⁸ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

²⁹ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

³⁰ Acts 1935; Burns, 1941 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

³¹ Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

³² Acts 1899, 1931; Burns 26-507; Baldwin 5371.

³³ Acts 1899; Burns 26-508; Baldwin 5372.

³⁴ Acts 1899; Burns 26-511; Baldwin 5875.

³⁵ Acts 1899; Burns 26-512; Baldwin 5376.

³⁶ Acts 1899; Burns 26-520; Baldwin 5384.

³⁷ Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

roads (unanimous).³⁸ The sheriff, in person or by deputy, attends the sessions of the council and executes its orders.³⁹

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.⁴⁰ He keeps separate accounts for each specific item of appropriation made by the council.⁴¹

28. COUNTY COUNCIL RECORD, 1899-. 2 vols. (1, 2).

Minutes of meetings of county council, showing date and place of meeting, names of members present, business discussed, and action taken. Also contains: Minutes of tax adjustment board, Oct. 10, 1932-, entry 220. Arr. chron. by date of meeting. No index. Hdw. 1899-Sept. 6, 1901; typed Nov. 16, 1901-. 400 pp. 18 x 13 x 2. Aud. off.

29. TAX LEVY AND ESTIMATE OF EXPENSES, 1908-. 7 f. b. (4 f. b. unlabeled; 172, 286, 320).

Contains:

- i. Budget estimates by county officials, showing dates of estimate and filing, names of official and office, and itemized statement of funds required.
- ii. Copies of tax levies established by the various taxing units, showing dates of filing and period covered; names of officials, taxing units, and funds; itemized rate for each fund; and total levy.

Arr. chron. by date of filing. No index. Hdw. and typed. 10 x 5 x 15. Aud. off.

30. [ADDITIONAL APPROPRIATIONS]. Sept. 30, 1935-. In Trustee's Reports, entry 299.

Original papers pertaining to additional appropriations made by the county council, showing date and minutes of meeting, nature and amount of appropriation, and names of members present.

III. CLERK OF THE CIRCUIT COURT

LEGAL STATUS

The office of clerk of the circuit court has existed in Marshall County ever since 1836 under the requirements of

³⁸ Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

³⁹ Acts 1899; Burns 26-510; Baldwin 5374.

⁴⁰ Acts 1899; Burns 26-509; Baldwin 5373. State ex rel. Van Der Veer v. Butcher, 205 Ind.

117, 185 N. E. (1935).

⁴¹ Acts 1899; Burns 26-523; Baldwin 5387.

the Constitution of 1816 and the Constitution of 1851. The clerk of the circuit court (commonly referred to as "county clerk") is elected for a 4-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 8 years in any 12-year period.⁴

The clerk must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year;⁵ must reside within the county after his election; must not hold any other lucrative office;⁶ must not practice law;⁷ must post bond in an amount fixed by the board of commissioners, to be approved by that board and filed with the recorder;⁸ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁹

Under the Constitution of 1816 the clerk was elected for a 7-year term and could hold the office of recorder.¹⁰

The clerk receives a regular salary of \$2,080 per year.¹¹ He receives \$125 for his services rendered at each general election, primary election, or special election.¹² For each

¹ Const. 1816, art. 5, sec. 8. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (special), ch. 3, secs. 1, 3. Rev. L. 1824, ch. 36, secs. 1, 3. Acts 1843-44 (general), ch. 3, sec. 1 (Marshall Organization Act). 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns, 1941 suppl., 10-3102; Baldwin, 1941 suppl., 2636. *McCracken v. State*, 27 Ind. 491 (1867).

⁸ Acts 1816-17, ch. 2, sec. 4. Rev. L. 1824, ch. 24, sec. 3. Rev. Stat. 1838; ch. 15, sec. 1; ch. 17, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-106, 49-120; Baldwin 13066, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427. Acts 1875; Burns 49-2703, 49-2704; Baldwin 1430, 1431.

⁹ Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 2, sec. 4. Acts 1817-18 (special), ch. 3 sec. 3. Rev. L. 1824, ch. 24, sec. 3. Rev. L. 1831, ch. 15, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-104; Baldwin 13054, 13057.

¹⁰ Const. 1816, art. 5, sec. 8; art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

¹¹ Acts 1871, ch. 17, sec. 24. Acts 1933; Burns 49-1004; Baldwin 7534.

¹² Acts 1935; Burns, 1941 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

registration blank or transfer of registration which he fills out and executes, he receives a sum fixed by the board of commissioners, not exceeding 4 cents; and in addition thereto receives reasonable compensation (fixed by the board of commissioners) for additional services rendered by him as registration officer.¹³ He is not permitted to retain, as compensation for himself, any fees collected by him, except to the extent expressly authorized by statute in the following cases: Five cents for each mile necessarily traveled in going from the clerk's office to the Governor's office, to receive State ballots, and in returning to the clerk's office; \$5 for his duties in connection with the admission or discharge of any person at any hospital for the insane, the Fort Wayne State School, the Muscatatuck State School, the Indiana Village for Epileptics, or the James Whitcomb Riley Hospital for Children; fees for services in connection with warrants issued by the State Department of Treasury for the collection of gross income taxes; fees for the issuance of fish and game licenses; fees for preparing transcripts for change of venue from his county; and all fees for change of venue to his county, except for preparation of transcripts.¹⁴

For sufficient legal grounds the clerk of the circuit court may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the Supreme Court.¹⁵ If the clerk is convicted of a felony the judgment of conviction must declare his office vacant.¹⁶

Any vacancy in the office of clerk of the circuit court is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), a clerk is elected for the remainder of the term in which

¹³ Acts 1933, 1935; Burns, 1941 suppl., 29-329; Baldwin, 1935 suppl., 7327.

¹⁴ Acts 1841-42 (general), ch. 119, sec. 1. Acts 1871, ch. 17, sec. 20. Acts 1941; Burns, 1941 suppl., 11-1404(a); Baldwin, 1941 suppl., 4836-1. Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1933, 1937; Burns, 1941 suppl., 49-1007; Baldwin, 1937 suppl., 7537. Acts 1927; Burns 49-1301 to 49-1305; Baldwin 7561 to 7565. Acts 1919; Burns 60-722; Baldwin 4836. Acts 1933, 1937; Burns, 1941 suppl., 64-2613(a); Baldwin, 1937 suppl., 15993(a). Op. Atty. Gen. 1938, p. 703, 1939, p. 258.

¹⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁷

The clerk may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes their salaries, which must be not less than \$75 nor more than \$200 per month.¹⁸ The clerk may require any deputy to give bond.¹⁹ Each deputy must take the oath required of the clerk, may perform all the official duties of the clerk, and is subject to the same regulations and penalties.²⁰ The clerk may remove such deputies and assistants at any time, and is responsible for their official acts.²¹

FUNCTIONS AND RECORDS

The clerk of the circuit court files and keeps a record of official bonds and oaths of certain county and township officers. He approves some of these bonds and administers some of these oaths.²² He approves and files the official bonds of notaries public, and he administers and files their

¹⁷ Const. 1851, art. 6, sec. 9. Acts 1817-18 (general), ch. 17, secs. 1, 8. Rev. L. 1824, ch. 10, sec. 4; ch. 86, sec. 1. Acts 1881 (Spec. Sess.), Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 1317. *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1869). Op. Atty. Gen. 1936, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹⁸ Acts 1871, ch. 17, sec. 25. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 59-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

¹⁹ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

²⁰ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

²¹ Rev. L. 1824, ch. 10, sec. 2. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin 1937 suppl., 7532.

²² Acts 1816-17, ch. 2, sec. 3; ch. 11, sec. 4; ch. 13, secs. 3, 4; ch. 19, sec. 1; ch. 39, sec. 1. Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3; ch. 72, sec. 1. Acts 1817-18 (special), ch. 3, sec. 3. Acts 1818-19, ch. 2, sec. 1. Rev. L. 1824, ch. 13, sec. 2; ch. 24, sec. 3; ch. 73, sec. 31. Rev. L. 1831, ch. 15, sec. 7; ch. 20, sec. 23. Acts 1833-34, ch. 16, sec. 1. Rev. Stat. 1843, ch. 4, secs. 84, 86, 89; ch. 10, sec. 2. 2 Rev. Stat. 1852, Acts 1861; Burns 5-118; Baldwin 1847. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-109; Baldwin 13064. Acts 1851-52; Burns 49-123; Baldwin 13093. Acts 1857; Burns 49-124; Baldwin 13077. Acts 1857; Burns 49-125; Baldwin 16118. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Acts 1889; Burns 49-3003; Baldwin 5417. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. Acts 1919, 1921; Burns 64-1001, 64-1101; Baldwin 15666, 15696. Acts 1915; Burns 65-103; Baldwin 16061.

official oaths.²³ Bonds of collection agencies are filed by the clerk after being approved by the judge of the circuit court. The clerk's receipt for such bond must accompany any application to the Secretary of State for a license to operate a collection agency.²⁴ Formerly he kept a general index to various bonds approved or filed by him.

The clerk issues licenses for marriages. He records these licenses, the applications therefor, and certificates of marriage; and he makes monthly reports to the county health officer concerning marriage.²⁵

The clerk issues licenses for physicians, surgeons,²⁶ midwives,²⁷ osteopaths,²⁸ chiropractors, drugless healers,²⁹ dentists,³⁰ optometrists,³¹ nurses,³² hunting, trapping,

²³ 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

²⁴ Acts 1937; Burns, 1941, suppl., 10-5001, 10-5002; Baldwin, 1937 suppl., 2468-5, 2468-6.

²⁵ Acts 1817-18 (general), ch. 34, secs. 3, 4, 6, 7. Rev. Stat. 1838, ch. 68, secs. 3, 6. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. 1 Rev. Stat. 1852, Acts 1939; Burns, 1941 suppl., 44-201; Baldwin, 1939 suppl., 5622. 1 Rev. Stat. 1852; Burns 44-203; Baldwin 5624. Acts 1905, 1917, 1941; Burns, 1941 suppl., 44-205; Baldwin, 1941 suppl., 5625. Acts 1939; Burns, 1941 suppl., 5624-1.

Before March 1, 1940 (the effective date of the 1939 law) a marriage license could be issued only in "the county in which the female resides." In 1938 the Supreme Court held that an injunction could be granted to prevent the clerk from violating this law. *Sweigart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

The 1939 law provides that the license may be issued in "the county in which application for such license is made."

The 1939 law also provides that each applicant for a license must present a medical certificate showing that the applicant is not infected with communicable syphilis, but this provision may be waived by the judge of the circuit court "because of emergency or other causes shown by affidavit or other proof." Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Common law marriage. *Young v. General Baking Co.*, 104 Ind. App. 658, 12 N. E. (2d) 1016 (1938); *Argiroff v. Argiroff*, 215 Ind. 297, 19 N. E. (2d) 560 (1939).

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington*, 213 Ind. 347, 12 N. E. (2d) 758 (1938).

²⁶ Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

²⁷ Acts 1897; Burns 63-1309; Baldwin 10709.

²⁸ Acts 1901; Burns 63-1316; Baldwin 10716.

²⁹ Acts 1927; Burns 63-1312; Baldwin 10713.

³⁰ Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1941 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

³¹ Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1941 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

³² Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

fishing,³³ poultry dealers,³⁴ junk dealers,³⁵ and for carrying pistols.³⁶ Formerly he issued licenses for veterinarians,³⁷ brokers,³⁸ stallions,³⁹ petty money lenders,⁴⁰ and sale of liquor.⁴¹

The clerk records timber brands,⁴² assumed business names,⁴³ trade marks and trade names used on bottles and other containers,⁴⁴ and certificates of patents granted by the United States Patent Office.⁴⁵ Formerly he kept a negro register,⁴⁶ a register of certificates of agents of foreign insurance companies,⁴⁷ a roll of the attorneys of the county,⁴⁸ and lists of shareholders of all banks doing business in the county;⁴⁹ and he recorded limited partnerships.⁵⁰

³³ Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1941 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

³⁴ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

³⁵ Acts 1905; Burns 42-703; Baldwin 10462.

³⁶ The law authorizes the judge of the circuit court to issue these licenses and does not mention the clerk. In issuing a license the clerk acts for the judge after the judge has approved a written application therefor. One copy of the license must be mailed to the Superintendent of State Police and another copy must be preserved for 6 years "by the authority issuing said license." The term of the license cannot exceed 1 year. Acts 1935, 1937; Burns, 1941 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

Former laws (repealed in 1935) authorized the clerk to issue such licenses. Acts 1925, ch. 207, sec. 7. Acts 1929, ch. 98, sec. 1. Acts 1935, ch. 63, sec. 21.

³⁷ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

³⁸ Acts 1840-41 (general), ch. 5, sec. 18.

³⁹ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the Stallion Enrollment Board).

⁴⁰ Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

⁴¹ Acts 1917, ch. 4, secs. 6, 12.

⁴² Acts 1901; Burns 51-338; Baldwin 13265.

⁴³ Acts 1909; Burns 50-201, 50-202; Baldwin 13210, 13211.

⁴⁴ Acts 1897, ch. 192, sec. 1. Acts 1917, 1931; Burns 66-101; Baldwin 16179.

⁴⁵ Acts 1869 (Spec. Sess.), 1899; Burns 51-401; Baldwin 2772.

⁴⁶ 1 Rev. Stat. 1852, ch. 74, sec. 3 (repealed by Acts 1867, ch. 128, sec. 1).

⁴⁷ Acts 1865 (Spec. Sess.), ch. 15, sec. 1. Acts 1877, ch. 43, sec. 1. Acts 1899, ch. 245, sec. 1. Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

⁴⁸ Rev. Stat. 1843, ch. 38, sec. 93.

⁴⁹ 1 Rev. Stat. 1852, ch. 10, sec. 30.

⁵⁰ Rev. Stat. 1838, ch. 78, secs. 5-7.

The clerk keeps a register of estrays and articles adrift;⁵¹ records appointments of railroad agents for service of process;⁵² records the commissions, oaths, and terminations of authority of railroad policemen;⁵³ administers oaths;⁵⁴ takes acknowledgments of written instruments;⁵⁵ and distributes session laws enacted by the general assembly.⁵⁶ Formerly the clerk filed public contracts for support of paupers;⁵⁷ filed enumerations of soldiers and sailors;⁵⁸ kept standards of weights and measures;⁵⁹ kept plats showing changes in routes of roads and canals;⁶⁰ and performed the duties of the office of school commissioner if there was no school commissioner.⁶¹

The clerk files petitions and remonstrances concerning the establishment of a county public library and notifies the judge of the circuit court, the county superintendent of schools, and the board of commissioners of the filing of such petition and any tax levy made for such library.⁶²

All funds received by the clerk must be deposited in a depository designated by the board of finance, and may be withdrawn by checks signed by the clerk or his authorized deputy.⁶³ He reports to the county auditor and treasurer

⁵¹ Acts 1807, ch. 20, secs. 1-3. Acts 1817-18 (general), ch. 68, secs. 2, 3. Rev. L. 1824, ch. 39, sec. 2. 1 Rev. Stat. 1852; Burns 51-306, 51-315; Baldwin 13233, 13243.

⁵² Acts 1877 (Spec. Sess.); Burns 55-3301 to 55-3303; Baldwin 14329 to 14331.

⁵³ Acts 1927; Burns 55-3402, 55-3408; Baldwin 14648, 14654.

⁵⁴ Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3. Acts 1818-19, ch. 17, sec. 1. Rev. L. 1824, ch. 10, sec. 2; ch. 73, sec. 31. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

⁵⁵ Acts 1817-18 (general), ch. 28, sec. 12. Rev. L. 1824, ch. 82, sec. 12. Rev. L. 1831, ch. 41, sec. 10. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

⁵⁶ Acts 1933, 1235; Burns, 1941 suppl., 49-1612, 49-1612a, 49-1614; Baldwin, 1935 suppl., 14956, 14956-1, 14958. Acts 1897; Burns 49-1613; Baldwin 14957.

⁵⁷ Rev. L. 1824, ch. 72, sec. 3. Rev. L. 1831, ch. 69, sec. 2.

⁵⁸ Acts 1885 (Spec. Sess.), ch. 97, secs. 1, 3 (both repealed by Acts 1895, ch. 100, sec. 1) Acts 1913, ch. 46, secs. 1, 2 (both repealed by Acts 1923, ch. 4, sec. 1).

⁵⁹ Acts 1817-18 (general), ch. 67, secs. 1, 2. Rev. L. 1824, ch. 116. Rev. L. 1831, ch. 110.

⁶⁰ Rev. Stat. 1838, ch. 17, sec. 56.

⁶¹ Acts 1836-37 (general), ch. 21, sec. 1.

⁶² Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321

⁶³ Acts 1937; Burns, 1941 suppl., 61-673, 61-674; Baldwin, 1937 suppl., 1438-1, 1438-2.

Loss of funds through failure of depository. State ex rel. Jackson v. Middleton, 215 Ind. 219, 19 N. E. (2d) 470 (1939); Commercial Casualty Ins. Co. v. Board of County Comrs., 215 Ind. 440, 19 N. E. (2d) 476 (1939).

all fees and fines collected by him.⁶⁴ All moneys remaining in the office of the clerk for 10 years without being demanded by the parties entitled thereto are paid to the Attorney General.⁶⁵

The clerk keeps a cashbook,⁶⁶ a daily balance record,⁶⁷ and a register of fees received by him;⁶⁸ and must preserve in his office all records and writings appertaining to his official duties.⁶⁹ On request and payment of a fee therefor, the clerk furnishes certified copies of records and papers on file in his office.⁷⁰

The State Board of Accounts (created in 1909) has prescribed forms for the following books to be used by the clerk: Cashbook of receipts and disbursements; daily balance record; register of fees and funds held in trust; and record of poultry dealers' licenses and applications therefor. Forms of printed blanks have also been prescribed.⁷¹

Other functions, duties, and records of the clerk are discussed in the essays entitled "Board of Primary Election Commissioners," "Circuit Court," "County Board of Canvassers," "County Board of Election Commissioners," "County School Fund Board," and "Registration Officer." Former functions, duties, and records of the clerk are discussed in the essays entitled "Auditor" (transferred to auditor in 1841), "Court of Common Pleas (1853-78)," and "Probate Court (1836-53)."

⁶⁴ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1828-29, ch. 24, secs. 1, 2. Rev. L. 1831, ch. 15, sec. 15. Acts 1841-42 (general), ch. 45, sec. 3. Rev. Stat. 1843, ch. 13, sec. 80; ch. 38, sec. 64. Acts 1871, ch. 17, secs. 20, 27. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

⁶⁵ Acts 1933; Burns 49-2717, 49-2718; Baldwin 15177, 15178.

⁶⁶ Acts 1871, ch. 17, sec. 19. Acts 1879 (Spec. Sess.); Burns 49-2722; Baldwin 1442.

⁶⁷ Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

⁶⁸ Acts 1871, ch. 17, sec. 19. Acts 1909, ch. 10, sec. 1. Acts 1927; Burns 49-1301; Baldwin 7561. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443.

Probate fee book. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

⁶⁹ Acts 1817-18 (general), ch. 13, sec. 2; ch. 66, sec. 4. Rev. L. 1824, ch. 10, sec. 1. Acts 1829-30, ch. 10, sec. 1. Rev. L. 1831, ch. 15, sec. 1. Rev. Stat. 1843, ch. 38, sec. 50. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁷⁰ Acts 1817-18 (general), ch. 13, sec. 18. Acts 1941, ch. 24, sec. 5. 2 Rev. Stat. 1852; Burns 7-413, 49-2707; Baldwin 3337, 1434. 1 Rev. Stat. 1852; Burns 44-302; Baldwin 5634. Fidelity Bldg. & Sav. Union v. Byrd, 154 Ind. 47, 55 N. E. 867 (1899); Midland Ry. Co. v. State ex rel. Harrison, 11 Ind. App. 433, 38 N. E. 57 (1894).

⁷¹ Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

RECEIPTS AND DISBURSEMENTS

31. CLERK'S DAILY BALANCE, 1918-. 2 vols. (2, 3).

Record of daily balance and cash statement, showing date of balance; amounts of balance at beginning and closing of day, receipts, disbursements, and totals; names of fund and depository; and itemized statement of cash in depositories and office. Arr. chron. by date of balance. No index. Hdw. 200 pp. 11 x 10 x 2. 1 vol., 1918-Nov. 9, 1922, clk. vt.; 1 vol., Nov. 10, 1922-, clk. off.

32. CASH BOOK OF RECEIPTS AND DISBURSEMENTS, 1871-1911, 1925-. 17 vols. Title varies: Clerk's Cash Book, 1871-1911, 12 vols.

Daily record of receipts and disbursements, showing date, nature, and amount of receipts and disbursements; names of payer, payee, and fund; receipt and warrant numbers; and totals. This is a combination of two records intercurrently kept separately: Cashbook of receipts, entry 33; cashbook of disbursements, entry 34. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 325 pp. 20 x 18 x 3. 12 vols., 1871-1911, bookroom 1; 5 vols., 1925-, clk. off.

33. CASH BOOK OF RECEIPTS, 1912-24. 3 vols. (1-3). 1871-1911, 1925- in Cash Book of Receipts and Disbursements, entry 32.

Daily record of receipts, showing date, nature, number, and amount of receipt; cause number; and names of payer and fund. Arr. chron. by date of receipt. No index. Hdw. 300 pp. 16 x 13 x 3. Bookroom 1.

34. CASH BOOK OF DISBURSEMENTS, 1912-24, 2 vols. (1, 2). 1871-1911, 1925- in Cash Book of Receipts and Disbursements, entry 32.

Daily record of disbursements, showing date, nature, and amount of disbursement; names of payee, fund, and depository; and check and cause numbers. Arr. chron. by date of disbursement. No index. Hdw. 300 pp. 16 x 13 x 3. Bookroom 1.

35. REGISTER OF FEES AND FUNDS HELD IN TRUST, 1873-. 8 vols. (1-8). Title varies: Register of Fees, 1873-1915, 4 vols.

Record of receipts and disbursements of fees and funds held in trust, showing date, nature, and amount of receipt or disbursement; cause number; and names of plaintiff, defendant, payer, and payee. Arr. alph. by name of payee and chron. thereunder by dates of receipt and disbursement. No index. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

OFFICIAL BONDS

36. [BONDS], 1872-Nov. 26, 1934. 11 f. b. (numbered irregularly).

Original bonds posted by county and township officials, covering:

- i. County official bonds, 1872-1930, showing information as in entry 37.
- ii. Constables bonds, showing information as in entry 42.
- iii. Justices of the peace bonds, 1872-Jan. 23, 1933, showing information as in entry 41.

Arr. chron. by date of bond. No index. Hdw. 10 x 5 x 15. Clk. off.

37. RECORD OF OFFICIAL BONDS, 1853-. 2 vols. (1 vol. unlabeled; B).

Transcripts of bonds posted by county officials, 1853-1930; and original bonds pasted in volume, 1931-, showing date, amount, and conditions of bond; and names of official and sureties. Also contains: Notary bond record, 1853-72, entry 40; justice bond record, 1853-71, entry 41; constable bond record, 1853-71, entry 42; miscellaneous bond record, 1853-1908, entry 43; and recognizance bond record, 1853-81, entry 150. Arr. chron. by date of bond. Indexed alph. by name of official; also separate index 1889-90, entry 38. Hdw. 100 pp. 15 x 11 x 2. 1 vol., 1853-June 6, 1871, bookroom 1; 1 vol., June 7, 1871-, clk. vt.

38. OFFICIAL BOND INDEX RECORD, 1889-90. 1 vol.

Index to record of official bonds, entry 37, showing date, amount, and conditions of bond; names of official and sureties; and volume and page reference to recording. Arr. alph. by name of official. Hdw. 400 pp. 18 x 13 x 2½. Bookroom 1.

39. [NOTARY BONDS], 1853-. In [Court Documents Disposed], entry 120.

Original bonds posted by notaries public, showing information as in entry 40.

40. NOTARY BOND RECORD, 1873-. 4 vols. (1-3; 1 vol. unlabeled). 1853-72 in Record of Official Bonds, entry 37.

Transcripts of bonds posted by notaries public, showing names of notary and sureties; date of filing; and date, amount, and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of notary. Hdw. 500 pp. 18 x 13 x 3. Clk. vt.

41. JUSTICE BOND RECORD, 1872-. 1 vol. 1853-71 in Record of Official Bonds, entry 37.

Transcripts of bonds posted by justices of the peace 1872-Jan. 23, 1933; and original bonds pasted in volume, Jan. 24, 1933-, showing names of township, justice of the peace, and sureties; date of filing; and date, amount, and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of justice of the peace. Hdw. 475 pp. 18 x 13 x 2. Clk. vt.

42. CONSTABLE BOND RECORD, 1872-. 1 vol. 1853-71 in Record of Official Bonds, entry 37.

Transcripts of bonds posted by constables, 1872-Nov. 26, 1934; and original bonds pasted in volume, Nov. 27, 1934-, showing names of township, constable, and sureties; date of filing; and date, amount, and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of constable. Hdw. 500 pp. 18 x 13 x 2. Clk. vt.

43. MISCELLANEOUS BOND RECORD, 1909-. 3 vols. (1-3). 1853-1908 in Record of Official Bonds, entry 37.

Transcripts of miscellaneous bonds posted, consisting of appeal, cost, replevin, contest of will, attachment and delivery bonds, showing date of filing; date, amount, number, and conditions of bond; and names of principal and sureties. Arr. chron. by date of filing. Indexed alph. by name of principal. Hdw. 1909-June 3, 1928; typed Aug. 8, 1928-. 600 pp. 18 x 13 x 3. 2 vols., 1909-36, bookroom 1; 1 vol., 1937-, clk. vt.

44. REGISTER OF OFFICERS, 1836-. 1 vol.

Register of bonded Marshall County officials, showing names of official, office, and sureties; dates of appointment or election, commission, and expiration or vacancy; and amount of bond. Arr. chron. by date of commission. Indexed alph. by name of official. Hdw. 300 pp. 18 x 13 x 3. Aud. vt.

LICENSES AND CERTIFICATES

MARRIAGE

45. MARRIAGE CERTIFICATES, 1934-. 2 f. b. 1837-1933 in [Court Documents Disposed], entry 120.

Original marriage certificates returned to clerk by parties officiating, showing dates of certificate and marriage; place of marriage; names of bride, groom, and witnesses; and name and title of person officiating. Arr. chron. by date of certificate. No index. Hdw. 10 x 5 x 15. Clk. off.

46. MARRIAGE RECORD, 1836-. 24 vols. 1 vol. unlabeled; B, A-V).

Record of marriage licenses issued and certificates of marriage, showing dates of license and certificate; and names of bride, groom, and officiating officer. Also contains: Record of applications for marriage licenses, Oct. 1913-, entry 47. Arr. chron. by date of license. Indexed alph. by names of bride and groom. Hdw. 600 pp. 18 x 13 x 3. 23 vols., 1836-Sept. 4, 1937, clk. vt.; 1 vol., Sept. 5, 1937-, clk. off.

47. RECORD OF APPLICATIONS FOR MARRIAGE LICENSES, Apr. 17, 1905-Sept. 1913. 6 vols. (1-6). Oct. 1913- in Marriage Record, entry 46.

Record of applications for marriage licenses, and affidavits, showing dates of application and affidavit; names of bride, groom, and affiant; date and place of birth, color, present address, occupation, and marital status of bride and groom; names, color, place of birth, residence, and occupation of parents; and volume and page reference to marriage record, entry 46. Arr. chron. by date of application. Indexed alph. by name of groom. Hdw. 300 pp. 18 x 12 x 3. Bookroom 1.

PROFESSIONAL

48. [PHYSICIANS' CERTIFICATES], 1897-. In [Court Documents Disposed], entry 120.

Original certificates issued by State Board of Medical Registration and Examination and presented to clerk to obtain licenses to practice medicine, surgery and obstetrics in State, showing information as in entry 49.

49. PHYSICIAN'S RECORD, 1881-. 3 vols. (1; 2 vols. unlabeled).

Record of certificates issued by State Board of Medical Registration and Examination, and licenses issued by clerk to practice in State, showing name, age, address, and place of birth of physician; school attended; dates of graduation and license; and certificate number. Arr. chron. by date of license. Indexed alph. by name of physician. Hdw. 200 pp. 18 x 12 x 2. 2 vols., 1881-May 18, 1896, book room 1; 1 vol., July 7, 1896-, clk. vt.

50. [DENTISTS CERTIFICATES], 1899-. In [Court Documents Disposed], entry 120.

Original certificates issued by State Board of Dental Examiners and presented to clerk to obtain licenses to practice dentistry in county, showing information as in entry 51.

51. RECORD DENTIST CERTIFICATE AND LICENSE, 1899-. 2 vols. Record of certificates issued by State Board of Dental Examination and licenses issued by clerk to practice in county, showing dates of certificate and license and name, age, place of birth, and address of dentist. Arr. chron. by date of license. Indexed alph. by name of dentist. Hdw. 200 pp. 18 x 12 x 2. Clk. vt.

52. [NURSES' CERTIFICATES], 1905-. In [Court Documents Disposed], entry 120.

Original certificates issued by State Board of Registration and Examination of nurses, showing information as in entry 53.

53. REGISTER OF TRAINED NURSES, 1921-. 1 vol.

Record of certificates issued by State Board of Registration and Examination of nurses and licenses issued by clerk to practice in county showing dates of registration, certificate, and license; certificate number; name and address of nurse; and statement of qualifications. Arr. chron. by date of registration. No index. Hdw. 125 pp. 9 x 9 x 1. Clk. vt.

54. [OPTOMETRISTS' CERTIFICATES], 1907-. In [Court Documents Disposed], entry 120.

Certificates issued by State Board of Registration and Examination in Optometry and presented to clerk to obtain licenses to practice in county, showing information as in entry 55.

55. OPTOMETRY LICENSES, 1907-. 1 vol.

Record of certificates issued by State Board of Registration and Examination in Optometry and licenses issued by clerk to practice in county, showing dates of certificate and license; number of certificate; name, age, address, and qualifications of optometrist; and name of school attended. Arr. numer. by certificate no. Indexed alph. by name of optometrist. Hdw. 250 pp. 14 x 9 x 1. Clk. vt.

56. VETERINARY RECORD, 1901-4. 1 vol. Discontinued as county record; license issued by State Board of Veterinary Medical Examiners, 1905-May 14, 1909, and by State Veterinary Examining Board May 15, 1909-.

Record of applications and licenses issued to practice veterinary medicine and surgery upon presentation of diploma from veterinary college or freeholder's affidavit certifying 5 years' former practice showing date of diploma or affidavit, application, and license; names of veterinarian and college attended or freeholder, and application number. Arr. chron. by date of application. Indexed alph. by name of veterinarian. Hdw. 160 pp. 18 x 12 x 1. Clk. vt.

COMMERCIAL.

57. [JUNK DEALERS' APPLICATIONS], 1905-. In [Court Documents Disposed], entry 120.

Applications of junk dealers for licenses to purchase junk in county, showing date of application, and name and place of business of applicant.

58. JUNK DEALER'S LICENSE, 1905-. 2 vols. (1 vol. unlabeled; 2).

Record of applications and licenses issued to purchase junk in county, showing license and expiration dates, name of dealer, and location of business. Arr. chron. by date of license. Indexed alph. by name of dealer. Hdw. 125 pp. 16 x 10 x 1. 1 vol., 1905-May 19, 1919, bookroom 1; 1 vol., July 16, 1919-, clk. vt.

59. [POULTRY DEALERS' APPLICATIONS], 1917-. In [Court Documents Disposed], entry 120.

Applications for licenses to purchase poultry, showing dates of application, license, expiration, and filing, and name and business address of applicant.

60. POULTRY DEALER'S LICENSE, 1917-. 2 vols. (1 vol. unlabeled; 2).

Record of applications and licenses issued to purchase poultry in State, showing name and business address of dealer, amount of fee, dates of application and license, and expiration date of license. Arr. chros. by date of license. Indexed alph. by name of dealer. Hdw. 200 pp. 11 x 8 x 1. 1 vol., 1917-Jan. 31, 1931, clk. vt.; 1 vol., Feb. 1, 1931-, clk. off.

61. [CERTIFICATE OF PARTNERSHIP], Apr. 23, 1909-Mar. 7, 1934. 2 f. b.

Original certificates of partnership, showing information as in entry 62. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 15. Clk. off.

62. RECORD OF PARTNERS AND FIRMS, ETC., Apr. 23, 1909-. 1 vol.

Transcripts of certificates of firms and partnerships doing business under names other than their own, Apr. 23, 1909-Mar. 7, 1934; and original certificates pasted in volume, Sept. 19, 1934-, showing date of filing, name of firm or partnership, nature and location of business, and names and addresses of members. Arr. chron. by dates of filing. Indexed alph. by names of firms or partnerships. Hdw. 500 pp. 18 x 13 x 3. Clk. off.

63. PHARMACIST'S RECORD, 1918-June 22, 1929. 2 vols. Discontinued as county record; kept by State Excise Director, 1933-34, and by Alcoholic Beverage Commission of Indiana, 1935-.

Record of applications and permits to sell alcoholic liquors

and grain alcohol for medicinal and sacramental purposes, showing dates of application and permit, name and address of applicant, location of business, statement of ownership and net value of stock of drugs, and permit number. Arr. chron. by date of application. No index. Hdw. 200 pp. 14 x 9 x 1. 1 vol., 1918-Apr. 20, 1920, bookroom 1; 1 vol., Apr. 21, 1920-June 22, 1929, clk. vt.

64. PHARMACIST APPLICATION RECORD, Apr. 2, 1918-Apr. 20, 1920, May 1922-June 22, 1929. 1 vol.

Contains:

- i. Record of applications and permits for pharmacist to receive, sell, and possess intoxicating liquors and pure grain alcohol, Apr. 2, 1918-Apr. 20, 1920, Mar. 23, July 15, 1925, showing dates of application, permit, and recording; names of applicant, proprietor, and partner; address of business; and nature of use. Arr. chron. by date of application.
- ii. Record of court allowances for payment of lawbooks purchased by circuit court, Dec. 30, 1922-June 22, 1929, showing dates of allowance and recording, name of firm purchased from, and amount of allowance. Arr. chron. by date of allowance.
- iii. Record of resident and nonresident hunting and fishing licenses received and sold, May 1922-Jan. 1924, showing date and number of licenses received, date of recording, name of firm selling licenses, number of licenses sold and returned, and cash received. Arr. chron. by date of recording.

No index. Hdw. 200 pp. 14 x 9 x 1. Bookroom 1.

65. PETTY MONEY LENDER'S LICENSE, 1913-16. 1 vol. Discontinued as county record; subsequent licenses issued by State Auditor 1917-32, and by State Department of Financial Institutions, 1933-.

Record of applications, licenses, and bonds of petty money lenders, showing dates of application, bond, and license; names of firm and sureties; and business address of firm. Arr. chron. by date of license. No index. Hdw. 200 pp. 14 x 9 x 1½. Bookroom 1.

66. FIREARM PERMITS, 1925-. 1 f. b.

Contains:

- i. Applications for permits to carry firearms, showing dates of application and filing; name, age, address, and physical description of applicant; description of firearm; and reason for application. Arr. chron. by date of filing.

- ii. Duplicates of permits issued by clerk to carry firearms, showing date and number of permit; name, address, date and place of birth, and physical description of permit holder; description of firearm; and reason for issuance. Arr. numer. by permit no.

Also contains: Sheriff's return of jurors, 1933-, entry 181. No index. Hdw. 10 x 5 x 15. Clk. off.

67. DEALERS' LICENSE TO SELL FIREARMS, 1925-. 1 f. b. Duplicates of licenses issued to dealers to retail firearms, showing dates of licenses and filing, name and address of dealer. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 15. Clk. off.

HUNTING, FISHING AND TRAPPING

68. HUNTING AND FISHING LICENSE STUBS, 1907-. 9 f. b. Stubs of hunting, fishing, and trapping licenses issued, showing dates of license and expiration; license number, amount of fee, and name, age, address, and physical description of licensee. Arr. numer. by license no. No index. Hdw. 10 x 5 x 15. Clk. off.

MISCELLANEOUS RECORDS

69. ESTRAY RECORD, 1836-. 2 vols. (A, B). Last entry, Aug. 20, 1899.

Transcripts of notices of finding and taking up of estrayed animals, showing dates of notice and finding, name and address of finder, description and appraised valuation of animal, place of finding, and cost of keeping animal. Arr. chron. by dates of notices. No index. Hdw. 300 pp. 18 x 13 x 3. Clk. vt.

MAPS

70. [PLAT MAPS], undated. 7 blueprints.

Plat maps of German, North, Green, Bourbon, Union, and West townships, and city of Plymouth, showing names of townships, cities, towns, lakes, and property owners; section and range numbers; and number of acres. Blueprint. No scale given. 26 x 36. Clk. vt.

71. STATE ENGINEERS, undated. 1 map.

Political and communication map of Indiana, showing location of paved and gravel roads, railroads, rivers, streams, cities, towns, and electric lines; and names and boundaries of counties. Drawn by W. Elliott Judge, San Francisco, California. Ptd. Scale: 1" to 9 mi. 4' x 5'. Clk. off.

IV. RECORDER

LEGAL STATUS

The office of recorder has existed in Marshall County ever since 1836 under the requirements of the Constitution of 1816 and the Constitution of 1851. The recorder is elected for a 4-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to the office for more than 8 years in any 12-year period.⁴

The recorder must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond in the amount of \$4,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁸ The recorder must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹ Under the Constitution of 1816 the recorder was elected for a 7-year term and could hold the office of clerk of the circuit court.¹⁰

¹ Const. 1816, art. 11, sec. 10. Const. 1851, art. 6, sec. 2. Rev. L. 1831, ch. 33, sec. 3; ch. 57, sec. 1. Rev. Stat. 1838, ch. 85, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 8; ch. 5, sec. 1; ch. 8, sec. 1. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Rev. L. 1831, ch. 57, sec. 3. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2. Carson v. McPhetridge, 15 Ind. 327 (1860).

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881, (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State, 27 Ind. 491 (1867).

⁸ Rev. L. 1831, ch. 77, secs. 2, 3. Rev. Stat. 1838, ch. 85, secs. 2, 3. Rev. Stat. 1843, ch. 4, secs. 86, 90; ch. 8, secs. 2, 3. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 46-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469. State ex rel. Lowry v. Davis, 96 Ind. 539 (1884). State ex rel. Lowry v. Davis, 117 Ind. 307, 20 N. E. 159 (1889).

⁹ Const. 1816, art. 11, sec. 6. Const. 1851, art. 15, sec. 4. Acts 1825-26, ch. 18, sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81-84, 92; ch. 8, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

The recorder receives a regular salary of \$1,320 per year.¹¹ He is permitted to retain as compensation for himself, in addition to his regular salary, 20 percent of the fees collected by him, provided the total amount of fees so retained be not more than \$4,680.¹²

For sufficient legal causes the recorder may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹³ If the recorder be convicted of a felony the judgment of conviction must declare his office vacant.¹⁴

Any vacancy in the office of recorder is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a recorder is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take an oath and postbond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁵

The recorder may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes the salaries of the deputies and assistants in an amount not less than \$75 nor more than \$200 per month.¹⁶ The recorder may require any deputy to give bond.¹⁷ Each deputy

¹¹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹² Rev. L. 1824, ch. 41, secs. 7, 9. Acts 1933; Burns 49-1001, 49-1005, 49-1009; Baldwin 7531, 7535, 7539. Acts 1933, 1937; Burns, 1941 suppl., 49-1009; Baldwin, 1937 suppl., 7539. Shilling v. State ex rel. Board of County Comrs., 158 Ind. 185, 62 N. E. 49 (1901).

¹³ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁴ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁵ Const. 1851, art. 6, sec. 9. Rev. L. 1824, ch. 36, sec. 1. Rev. Stat. 1838, ch. 85, sec. 14. Rev. Stat. 1843, ch. 4, sec. 155; ch. 8, sec. 16. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7681, 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Hedley v. Board of County Comrs., 4 Blackf. 131 (1835); Douglass v. State ex rel. Wright, 31 Ind. 429 (1869); State ex rel. Ault v. Long, 91 Ind. 351 (1883). Op. Atty. Gen. 1936, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹⁶ Rev. L. 1831, ch. 77, sec. 6. Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

¹⁷ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

must take the oath required of the recorder, may perform all of his official duties, and is subject to the same regulations and penalties.¹⁸ The recorder may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁹

FUNCTIONS AND RECORDS

Deeds, mortgages, and various other instruments are presented to the recorder for recording, for which he issues official receipts. He keeps an entry book in which he enters, as filed, all such instruments, noting the day and hour received, which is deemed the time of recording.²⁰

To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,²¹ and the intangible tax thereon (if any) must be paid.²² No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.²³

Laws require the Marshall County recorder to record all of the following documents: Deeds;²⁴

¹⁸ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁹ Rev. L. 1831, ch. 77, sec. 6. Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²⁰ Rev. L. 1831, ch. 77, sec. 4. Rev. Stat. 1838, ch. 85, sec. 4. Rev. Stat. 1843, ch. 8, secs. 6-8; ch. 28, sec. 46. Acts 1895; Burns 49-3203; Baldwin 5472. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 14665. Hand v. Board of County Comrs., 26 Ind. 179 (1866); Holman v. Doran, 56 Ind. 358 (1877); Gilchrist v. Gough, 63 Ind. 576 (1878); Moore v. Glover, 115 Ind. 367, 16 N. E. 163 (1888).

²¹ Rev. L. 1831, ch. 41, secs. 7-11. Rev. Stat. 1838, ch. 44, secs. 7-11. Rev. Stat. 1843, ch. 28, secs. 28-45, 48-51. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1941 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14733.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

²² Acts 1933; Burns 64-929; Baldwin 15927.

²³ Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

²⁴ Rev. L. 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Rev. Stat. 1838, ch. 44, sec. 7; ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 24, 25, 48. 1 Rev. Stat. 1852; Burns 49-3210, 56-118, 56-131; Baldwin 5475, 14664, 14665. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Lowry v. Smith, 97 Ind. 466 (1884).

land patents;²⁵ probated wills;²⁶ decrees quieting title to lands;²⁷ partitions of real estate under judicial proceedings;²⁸ mortgages; releases and assignments of mortgages;²⁹

Cemetery records. Rev. Stat. 1843, ch. 25, secs. 62-65. Acts 1925; Burns 21-223; Baldwin 4648. 1 Rev. Stat. 1852; Burns 25-1521, 25-1522; Baldwin 10600, 10602.

Wabash and Erie Canal deeds. Acts 1881 (Spec. Sess.); Burns 2-1626; Baldwin 267.

Deeds of commissioners appointed by court to make conveyance. Acts 1881 (Spec. Sess.); Burns 3-1008; Baldwin 894.

Tax deeds (1824 to date) and tax certificates (1843 to 1881). Rev. L. 1824, ch. 86, sec. 12. Rev. Stat. 1843, ch. 12, sec. 159. 1 Rev. Stat. 1852, ch. 6, sec. 197. Acts 1881 (Spec. Sess.), ch. 96, secs. 195, 211. Acts 1919, ch. 59, secs. 263, 284.

Sheriff's deeds. Acts 1881 (Spec. Sess.), Burns 2-4006, 2-4101, 2-4102; Baldwin 629, 619, 620.

Deeds of school lands and deeds connected with school fund loans. Rev. L. 1831, ch. 86, secs. 7, 24. Rev. Stat. 1838, ch. 94, subch. 12, sec. 7. Rev. Stat. 1843, ch. 13, secs. 44, 49. Acts 1899; Burns 28-255; Baldwin 6607.

²⁵ "May be recorded as other deeds and conveyances." Acts 1881; Burns 2-1632; Baldwin 271.

²⁶ Acts 1826-27, ch. 57, sec. 6. Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. Acts 1933; Burns 7-713; Baldwin 3414.

²⁷ Acts 1911; Burns 3-1409; Baldwin 968.

The 1911 law requires the recording in a substantially bound book to be known as the "Quiet Title Record," and requires an index for that record. *Ibid.*

²⁸ Acts 1859, ch. 103. Acts 1907, ch. 80. Acts 1919; Burns 64-518; Baldwin 15555.

²⁹ Rev. L. 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Rev. Stat. 1838, ch. 44, secs. 7, 12; ch. 85, secs. 1, 4, 8, 9. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 26, 27, 48; ch. 29, secs. 52, 63, 69-71. Acts 1909, 1917, 1923; Burns 2-617; Baldwin 61-2 (repealed by Acts 1937, ch. 97, sec. 4). Acts 1937; Burns, 1941 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1905; Burns 49-3202, 49-3204; Baldwin 5476, 5473. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. 1 Rev. Stat. 1852; Burns 56-122; Baldwin 14673. 2 Rev. Stat. 1852; Burns 56-705, 56-708; Baldwin 989, 992. Acts 1901; Burns 56-709, 56-710; Baldwin 993, 994. Acts 1925; Burns 56-712, 56-713; Baldwin 10575, 10576. 2 Rev. Stat. 1852, Acts 1877; Burns 56-715; Baldwin 996. Acts 1877; Burns 56-716; Baldwin 998. Acts 1899; Burns 56-717; Baldwin 997. Anderson Bldg. & L. Sav. Assn. v. Thompson, 87 Ind. 278 (1881); Mechanics' Bldg. Assn. v. Whitacre, 92 Ind. 547 (1884); Chandler v. Scott, 127 Ind. 226, 26 N. E. 797 (1891); State ex rel. McCoy v. Krost, 140 Ind. 41, 39 N. E. 46 (1894); Lincoln Natl. Bank & T. Co. v. Nathan, 215 Ind. 178, 19 N. E. (2d) 243 (1939); Kaufman v. Millies, 106 Ind. App. 569, 18 N. E. (2d) 970 (1939).

Chattel mortgages before 1935 (old system). Rev. Stat. 1838, ch. 85 (first act), sec. 1; ch. 85 (second act), sec. 1. 1 Rev. Stat. 1852, Acts 1897; Burns 33-301, 33-302; Baldwin 8373, 8374 (first section repealed by Acts 1935, ch. 147, sec. 20).

Chattel mortgages and chattel mortgage minute book since 1935. Acts 1935; Burns, 1941 suppl., 51-504 to 51-517; Baldwin. 1935 suppl., 13227-4 to 13227-17. Voigt v. Mergenthaler Linotype Co., 213 Ind. 325, 12 N. E. (2d) 498 (1938); Voigt v. Ludlow Typograph Co., 213 Ind. 329, 12 N. E. (2d) 499 (1938).

conditional sales contracts;³⁰ Federal tax lien notices and releases thereof;³¹ statutory liens of materialmen, building contractors, laborers,³² transfermen,³³ and owners of stallions;³⁴ contracts waiving liens of materialmen, laborers, and building contractors;³⁵ releases of vendors' liens;³⁶ leases of lands;³⁷ surveys establishing a meridian line;³⁸ surveyor's field notes;³⁹ maps and plats;⁴⁰ notices of disputes

Chattel mortgage distinguished from conditional bill of sale. *Stroup v. Myer*, 106 Ind. App. 538, 21 N. E. (2d) 75.

Mortgage covering both realty and personalty. *Lincoln Nat. Bank & T. Co. v. Nathan*, 215 Ind. 178, 19 N. E. (2d) 243 (1939).

School fund loans. Acts 1828-29, ch. 84, secs. 16, 19. Rev. L. 1831, ch. 86, sec. 23. Acts 1836-37 (general), ch. 2, sec. 10. Rev. Stat. 1838, ch. 85, sec. 10. Acts 1865; Burns 28-233; Baldwin 6583. *Stockwell v. State ex rel. Johnson*, 101 Ind. 1 (1885).

Mortgages held by county agent. Rev. Stat. 1838, ch. 89, sec. 15.

Right to rely on record of mortgage. *Vincennes Savings and Loan Assn. v. St. John*, 213 Ind. 171, 12 N. E. (2d) 127 (1938).

³⁰ Acts 1935; Burns, 1941 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires that a separate record be kept. *Ibid.*

³¹ Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

³² Rev. Stat. 1838, ch. 69, sec. 7. Rev. Stat. 1843, ch. 42, sec. 5. 2 Rev. Stat. 1852, ch. 1, sec. 650, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. *State ex rel. Lyons v. Phillips*, 157 Ind. 481, 62 N. E. 12 (1901).

Corporation employees. Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

³³ Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

³⁴ Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3792.

³⁵ Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

³⁶ Acts 1937; Burns, 1941 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1889; Burns 56-144, 56-145; Baldwin 14702, 14703.

³⁷ Rev. Stat. 1843, ch. 28, sec. 25. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

Miscellaneous record specified. Acts 1897; Burns 56-120. no Baldwin.

³⁸ Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

³⁹ Rev. L. 1831, ch. 102, secs. 5, 7. Rev. Stat. 1843, ch. 10, secs. 10, 11, 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁴⁰ Rev. L. 1831, ch. 77, sec. 7; ch. 105, sec. 14. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, ch. 9. Acts 1881 (Spec. Sess.); Burns 6-1127; Baldwin 3168. Acts 1925; Burns 21-219 to 21-221, 21-225, 21-226, 21-228; Baldwin 4644 to 4646, 4650, 4651, 4653. 1 Rev. Stat. 1852; Burns 25-1522; Baldwin 10602. Acts 1905; Burns 48-801, 48-802; Baldwin 12473, 12474. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

of easements;⁴¹ farm names;⁴² fence marks;⁴³ marks and brands of animals;⁴⁴ powers of attorney;⁴⁵ discharges from military service;⁴⁶ charters and proceedings of corporations and associations;⁴⁷ limited partnerships;⁴⁸ bonds of surviving partners;⁴⁹ leases of rolling stock and equipment of railroads;⁵⁰ statutory statements of express companies;⁵¹ certificates revoking the admission of foreign corporations to do business in this State;⁵² and the official bond of the clerk of the circuit court.⁵³

The recorder keeps a miscellaneous record in which he records documents for which he keeps no specific book, including many papers, writings, and documents which no law specifically requires him to record.⁵⁴

A law provides that, when so directed by the board of commissioners, the recorder must "subscribe for one of each

⁴¹ 1 Rev. Stat. 1852; Burns 56-804; Baldwin 14775.

⁴² Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

⁴³ Acts 1877 (Spec. Sess.), Burns 30-510; Baldwin 7630.

⁴⁴ Acts 1835-36 (general), ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 6. Rev. Stat. 1843, ch. 8, secs. 11, 12. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

⁴⁵ Acts 1881 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1883; Burns 49-1309, 56-108, 56-109; Baldwin 14733, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 14731.

⁴⁶ Acts 1865, ch. 40, sec. 4. Acts 1865 (Spec. Sess.), ch. 7, sec. 4. Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*

⁴⁷ Rev. L. 1831, ch. 60, sec. 5; ch. 64, sec. 1; ch. 87, sec. 1. Acts 1941, ch. 152, sec. 2. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941, 4942, 4963, 4967, 4969. Acts 1921, 1941 Burns, 1941 suppl., 25-1102; Baldwin, 1941 suppl., 4552. Acts 1883; Burns 25-2002; Baldwin 10681. Acts 1909, 1941; Burns, 1941 suppl., 25-3602; Baldwin, 1941 suppl., 9280-2.

⁴⁸ Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1859; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

⁴⁹ Acts 1877; Burns 50-304; Baldwin 13216.

⁵⁰ Acts 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

⁵¹ Acts 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

⁵² Acts 1929; Burns 25-311; Baldwin 4969.

⁵³ Rev. L. 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89. 1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

⁵⁴ Rev. L. 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat 1852; Burns 49-3209; Baldwin 5471. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

of the newspapers of a political or miscellaneous character published in his county, file the same in his office, and cause said newspapers to be substantially bound, from time to time, in volumes of a convenient size, to be kept in his office for the use of the inhabitants of this State, who shall, at all times during office hours, have access to the same, free of all charge and expense."^{5 5}

Laws formerly required the recorder to record the following documents: Indentures of apprentices;^{5 6} old age assistance awards;^{5 7} inheritance tax receipts;^{5 8} dentists' certificates of registration;^{5 9} special assessments against lands benefited by ditches and drains;^{6 0} and official bonds of the sheriff, coroner,^{6 1} county school commissioner,^{6 2} and tobacco inspector.^{6 3}

The recorder is required to index the deeds, mortgages, and various other instruments recorded by him.^{6 4} Information

^{5 5} 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

^{5 6} Rev. L. 1831, ch. 69, sec. 7. Rev. Stat. 1838, ch. 4, sec. 2. Rev. Stat. 1843, ch. 35, secs. 138, 139. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475.

The law providing for indenturing of apprentices was repealed in 1939. Acts 1939, ch. 10.

^{5 7} Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1207; Baldwin 1941 suppl., 14078-38.

^{5 8} Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labeled "Transfer Tax."

^{5 9} Acts 1887, ch. 32, sec. 9. Acts 1899, ch. 211, sec. 29.

^{6 0} Acts 1831 (Spec. Sess.), ch. 43, sec. 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 6. Acts 1905, ch. 157, secs. 4, 14. Acts 1907, ch. 252, secs. 6, 21. Acts 1933, ch. 264, sec. 81.

Releases. Acts 1941; Burns, 1941 suppl., 27-140; Baldwin, 1941 suppl., 5771-1.

^{6 1} Rev. L. 1831, ch. 97, sec. 3. Rev. Stat. 1838, ch. 99, sec. 3. Rev. Stat. 1843, ch. 38, secs. 69, 70. 1 Rev. Stat. 1852, ch. 92. 2 Rev. Stat. 1852, ch. 6, sec. 1, p. 10; ch. 7, sec. 1, p. 13.

^{6 2} Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 5. Acts 1836-37 (general), ch. 2, subch. 2, sec. 3. Rev. Stat. 1838, ch. 94, subch. 2, sec. 3. Rev. Stat. 1843, ch. 4, sec. 162.

^{6 3} Rev. L. 1824, ch. 109, sec. 4. Garrett v. Board of County Comrs., 92 Ind. 518 (1883).

^{6 4} Deeds. Rev. L. 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. 1 Rev. Stat. 1852, Acts 1855; Burns 49-3216, 49-3218; Baldwin 5480, 5482. Turpen v. Board of County Comrs., 7 Ind. 172 (1855), State ex rel. Board of County Comrs. v. Atkinson, 17 Ind. 26 (1861).

Mortgages. Acts 1825, ch. 44, sec. 1. Acts 1826-27, ch. 52, sec. 1. Rev. L. 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. 1 Rev. Stat. 1852; Burns 49-3209, 49-3217, 49-3218; Baldwin 5471, 5482. Gilchrist v. Gough, 63 Ind. 576 (1848); Reeder v. State ex rel. Harlan, 98 Ind. 114 (1884).

Index to chattel mortgage minute book. Acts 1935; Burns, 1941 suppl., 51-510; Baldwin, 1935 suppl., 13227-10.

concerning the documents recorded in his office is reported annually to the State Division of Accounting and Statistics.⁶⁵

The recorder charges the fees required by law. He keeps a combined fee book and cashbook, and enters therein, as received, all money received in his office. Quarterly he reports to the auditor the amount of fees collected by him, and pays such fees over to the treasurer.⁶⁶

Printed blank forms (furnished by the county) of deeds, mortgages, and other instruments may be used by the recorder for recording instruments (executed on similar printed forms) for any person who presented 500 or more of such instruments to the recorder for recording during the last preceding year.⁶⁷

The photographic process of recording instruments may be used by the recorder if adopted by the board of commissioners.⁶⁸ Such method has never been used generally by the recorder of Marshall County.

Forms for the following books were prescribed for recorders by the State Board of Accounts: A combined fee book and cashbook; register of farm names; chattel mortgage minute book; and abstract of old-age assistance awards. Said board has prescribed forms of blanks for report of fees collected, application for registration of farm names, certificate of registration of farm names, and chattel mortgage receipt.⁶⁹

Federal tax liens. Acts 1925; Burns 49-3222; Baldwin 10571.

Conditional sales of fixtures. Acts 1935; Burns, 1941 suppl., 58-806, 58-809; Baldwin, 1935 suppl., 14857-5, 14857-8.

Quiet title record. Acts 1911; Burns 3-1409; Baldwin 968.

Discharges from military service. Acts 1925; Burns 59-1003; Baldwin 11003.

Contracts waiving liens of laborers, materialmen, and building contractors. Acts 1921, ch. 56, sec. 1.

⁶⁵ Acts 1909; Burns 60-202; Baldwin 13855. *Statistical Report for the State of Indiana for the Period Ended June 30, 1940*, pp. 56-58.

⁶⁶ Acts 1871, ch. 15, secs. 4, 21, 22, 51. Acts 1883, ch. 78, sec. 3. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1308, 49-1310; Baldwin 7566, 7567. Acts 1895, 1903, 1913; Burns 49-1401, 49-1402, 49-1408, 49-1410; Baldwin 7576, 7577, 7583, 7585. Op. Atty. Gen. 1937, p. 317. See footnote 12.

Fee charged where single instrument releases or assigns more than one chattel mortgage. Op. Atty. Gen. 1939, p. 54.

⁶⁷ Acts 1875 (Spec. Sess.), 1919; Burns 49-3206; Baldwin 5487.

⁶⁸ Acts 1927; Burns 49-3207; Baldwin 14667.

⁶⁹ Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

Formerly the county treasurer, auditor, and recorder selected petit jurors for the circuit court and court of common pleas.⁷⁰

FILING OF INSTRUMENTS FOR RECORDING

72 ENTRY BOOK, Nov. 15, 1839-. 29 vols. (B-Z, 1-4). Record of instruments filed for recording, showing date and time of recording; names of principals; date, number, and kind of instrument; location and description of property; amount of consideration; and volume and page reference to recording. Also contains: Record of fees collected, Nov. 15, 1839-78, entry iii. Arr. chron. by date of recording. No index. Hdw. 318 pp. 19 x 12 x 3. 25 vols., Nov. 15, 1839-May 4, 1926, book room 3; 3 vols., May 4, 1926-Jan. 1937, recr. vt.; 1 vol., Feb. 1937-, recr. off.

LAND TRANSFERS

DEEDS, TITLES AND GRANTS

73. GENERAL INDEX OF DEEDS, 1836-. 24 vols. (1-24). Index to Deed Record, entry 74; Sheriff's Deed, June 22, 1866-, entry 77; Quiet Title Record, May 17, 1911-, entry 78; Tax Title Deed Record, 1868-, entry 79; and Deed Record, Partition, 1894-1924, entry 80, showing dates of instrument and recording, names of principals, kind of instrument, location and description of property, and volume and page reference to recording. Arr. alph. by name of principal. Hdw. 600 pp. 19 x 12 x 3. 5 vols., 1836-79, book room 3; 19 vols.. 1880-, recr. off.

74. DEED RECORD, 1836-. 139 vols. (A-Z, 1-113). Transcripts of deeds for conveyance of titles to real property, showing dates of deed and recording, names of grantor and grantee, amount of consideration, and location and description of property. Also contains: Sheriff's deeds, 1841-June 21, 1866, entry 77; tax title deed record, 1840-67, entry 79; deed record, partition, 1845-93, 1925-, entry 80; record of wills and orders of court, 1836-91, entry 81; mortgage record, 1836-44 entry 89; school fund mortgage record, 1836-44, entry 90; chattel mortgage record, 1836-44, entry 95; release record,

⁷⁰ 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

These duties were discontinued in 1861. Acts 1881 (Spec. Sess.), 1869, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270. See the essay entitled "Circuit Court."

1836-70, entry 98; mechanics' liens, 1836-52, entry 99; miscellaneous records, 1836-52, entry 105; record of indentures, 1836-52, entry 107; and soldiers' discharge record, 1836-53, entry 108. Arr. chron. by date of recording. Indexed alph. by name of grantor; also separate index, entry 73; also separate index to mortgage recordings, 1836-44, see entries, 87, 88; also separate index to miscellaneous recordings, 1836-52, entry 106. Hdw., 1836-June 4, 1902; typed, June 5, 1902-. 600 pp. 9 x 12 x 3. 126 vols., 1836-Apr. 14, 1928, recr. vt.; 13 vols., Apr. 17, 1928-, recr. off.

75. GENERAL INDEX OF DEEDS, 1836-79. 5 vols. (1-5). Original index to deed record that has been transcribed into new volumes, showing information as in entry 73. Arr. alph. by names of grantor and grantee. 600 pp. 19 x 12 x 3. Book room 3.

76. COUNTY CEMETERIES DEED RECORD, Aug. 13, 1925-. 1 vol. 1853-July 1925 in Miscellaneous Records, entry 105. Transcripts of deeds to cemetery lots, showing dates of deed and recording; names of cemetery, grantor, and grantee; location and description of lot; instrument number; amount of consideration; and conditions of deed. Arr. chron. by date of recording. Indexed alph. by name of grantor. Typed. 600 pp. 19 x 12 x 3. Recr. vt.

77. SHERIFF'S DEEDS, June 22, 1866-. 6 vols. 1841-June 21, 1866 in Deed Record, entry 74. Transcripts of deeds for conveyance of titles to property sold to satisfy judgments, showing dates of sale, deed, court order, and recording; cause number; names of plaintiff, defendant, and grantee; amount of consideration; location and description of property; and volume and page reference to execution docket, entry 197. Arr. chron. by date of recording. Indexed alph. by name of defendant; also separate index, entry 73. Hdw., June 22, 1866-Sept. 19, 1929; typed Sept. 19, 1929-. 600 pp. 18 x 12 x 3. Recr. vt.

78. QUIET TITLE RECORD, May 17, 1911-. 2 vols. (1, 2). 1853-May 15, 1911 in Miscellaneous Records, entry 105.

Transcripts of court decrees rendered in causes quieting titles to real property, showing dates of trial and decree; date and time of recording; names of plaintiff, defendant, attorneys, and witnesses; location and description of property; proceedings; and court decree. Arr. chron. by date of recording. Indexed alph. by names of plaintiff and defendant; also separate index, entry 73. Typed. 600 pp. 19 x 13 x 3. Recr. vt.

79. TAX TITLE DEED RECORD, 1868-. 3 vols. (1-3). 1840-67 in Deed Record, entry 74.

Transcripts of deeds issued by auditor to purchasers of property sold for nonpayment of taxes, showing dates of sale, certificate of purchase, and deed; names of previous owner and purchaser; date and time of recording; location and description of property; and amount of sale. Arr. chron. by date of recording. Indexed alph. by name of grantor; also separate index, entry 73. Hdw. 600 pp. 19 x 12 x 3. Recr. vt.

For original tax title deeds, see entry 104ix.

80. DEED RECORD, PARTITION, 1894-1924. 1 vol. 1845-93, 1925- in Deed Record, entry 74.

Record of court decrees in actions for partition of real estate, showing dates of court decree and recording; names of plaintiff, defendant, and attorneys; location and description of property; amounts of fees and costs; decree of court; and volume and page reference to order book, entry 184. Arr. chron. by date of recording. Indexed alph. by name of plaintiff; also separate index, entry 73. Hdw. 1894-Sept. 23, 1908; typed Oct. 13, 1908-Apr. 6, 1925. 500 pp. 19 x 12 x 3. Recr. vt.

81. RECORD OF WILLS AND ORDERS OF COURT, 1892-. 3 vols. (1-3). 1836-91 in Deed Record, entry 74.

Transcripts of wills and orders of court, showing dates of will and recording; names of testator, beneficiaries, witnesses, and executor; amount of bequest; location and description of property; cause number; and nature of court order. Arr. chron. by date of recording. Indexed alph. by name of testator. Hdw. 1892-Apr. 20, 1903, Sept. 29, 1925-Mar. 10, 1937; typed May 4, 1903-Sept. 28, 1925, Mar. 15, 1937-. 600 pp. 19 x 12 x 3. Recr. vt.

82. SWAMP LAND RECORD, 1858-. 1 vol.

Record of swamplands sold by State, showing certificate number, dates of purchase and recording, name of purchaser, amount paid, conditions of sale, and location and description of land. Arr. chron. by date of recording. Indexed alph. by name of purchaser. Hdw. 600 pp. 19 x 12 x 3. Recr. off.

83. TRACT BOOK, 1832-75. 1 vol.

Tract book of original land purchases from U. S. Government, showing name of purchaser, date of purchase, number of acres purchased, location and description of land, and Congressional Township and range numbers. Arr. numer. by t. no. No index. Hdw. 200 pp. 20 x 12 x 1. Book room 3.

PLATS

84. PLAT BOOK, 1834-. 2 vols. (1, 2).

Plat drawings of additions, subdivisions, and cemeteries, showing number, size, and location of tract; names of additions, subdivisions, and cemeteries; and date of recording. Arr. chron. by date of recording. Indexed alph. by names of plat, addition, cemetery or subdivision. Hdw. 1834-July 13, 1906; typed Aug. 18, 1906-. 200 pp. 20 x 14 x 2. Recr. off.

85. PLAT BOOK OF TOWNS, 1834-Oct. 12, 1891. 1 vol. Plat drawings of original survey of towns located in county, showing names, locations, and description of towns, additions and streets; widths of streets and alleys; original lot number; dimension of lot; and date of recording. Arr. chron. by date of recording. Indexed alph. by name of town. Hdw. and drawn. 120 pp. 19 x 12 x 3. Recr. off.

86. FIELD NOTES, 1879. 1 vol.

Plat drawings of original survey of townships in Marshall County, showing township, range, and section numbers; locations and descriptions of sections and townships; and dimensions of townships and sections. Arr. num. by section no. No index. Hdw. 232 pp. 27 x 21 x 2. Recr. off.

MORTGAGE TRANSACTIONS

REAL ESTATE

87. GENERAL INDEX MORTGAGES, MORTGAGOR, 1836-. 15 vols. (numbered irregularly).

Index to mortgages recorded in deed record, 1836-44 entry 74; and in mortgage record, 1845-, entry 89; school fund mortgage record, 1864-, entry 90; Federal land bank mortgages, 1919-, entry 91; Home Owners' Loan mortgages, 1934-, entry 92; recorder's chattel mortgage minute book, June 12, 1935-, entry 94; and chattel mortgage record, 1880-June 10, 1935, entry 95, showing date of recording; names of mortgagor and mortgagee; date, amount, and kind of mortgage; location and description of property; and volume and page reference to recording. Arr. alph. by name of mortgagor. Hdw. 600 pp. 18 x 12 x 3. 7 vols., 1836-1903, book room 3; 5 vols., 1904-25, recr. vt.; 3 vols., 1926-, recr. off.

88. GENERAL INDEX MORTGAGES, MORTGAGEE, 1836-. 15 vols. (numbered irregularly).

Index to mortgages recorded in deed record, 1836-44, entry 74 and in mortgage record, 1845-, entry 89; school fund mortgage record, 1864-, entry 90; Federal land bank mortgages,

1919-, entry 91; Home Owners Loan mortgages, 1934-, entry 92; recorder's chattel mortgage minute book, June 12, 1935-, entry 94; and chattel mortgage record, 1880-June 10, 1935, entry 95, showing information as in entry 87. Arr. alph. by name of mortgagee. Hdw. 600 pp. 18 x 12 x 3. 7 vols., 1836-1903, book room 3; 5 vols., 1904-25, recr. vt.; 3 vols., 1926-, recr. off.

89. MORTGAGE RECORD, 1845-. 158 vols. (A-Z, 1-132).
1836-44 in Deed Record, entry 74.

Transcripts of mortgages executed to secure loans on real property, showing date, amount, number, and conditions of mortgage; dates of recording, assignment, satisfaction, and release; names of mortgagor and mortgagee; location and description of property; and marginal memoranda of satisfaction or release. Also contains: School fund mortgage record, 1845-63, entry 90; chattel mortgage record, 1845-79, entry 95; and release record, 1879-, entry 98. Arr. chron. by date of recording. Indexed alph. by names of mortgagor and mortgagee; also separate indexes, entries 87, 88. Hdw.; 1845-May 13, 1903; typed, May 13, 1903-. 575 pp. 18 x 13 x 3. 138 vols., 1845-July 14, 1932, recr. vt.; 20 vols., July 15, 1932-, recr. off.

90. SCHOOL FUND MORTGAGE RECORD, 1864-. 6 vols. (1-6).
1836-44 in Deed Record, entry 74; 1845-63 in Mortgage Record, entry 89.

Transcripts of mortgages executed to secure school fund loans, showing date, amount, number, and conditions of mortgage; date of recording; name of mortgagor; affidavit of ownership; and location and description of property. Arr. chron. by date of recording. Indexed alph. by name of mortgagor; also separate indexes, entries 87, 88. Hdw., 1864-Mar. 9, 1928; typed, Mar. 26, 1928-. 600 pp. 19 x 12 x 3. Recr. vt.

91. FEDERAL LAND BANK, 1919-. 2 vols. (1, 2).

Transcripts of mortgages executed to secure Federal Land Bank loans, showing date, amount, number, and conditions of mortgage; date of recording; names of mortgagee and mortgagor; and location and description of property. Arr. chron. by date of recording. Indexed alph. by name of mortgagor; also separate indexes, entries 87, 88. Typed. 600 pp. 19 x 12 x 3. 1 vol., 1919-33, recr. vt.; 1 vol., 1934-, recr. off.

92. HOME OWNERS' LOAN, 1934-. 1 vol.

Record of Home Owners' Loan Corporation mortgages, showing date, amount, number, and conditions of mortgage; date of recording; names of mortgagee and mortgagor; and location

and description of property. Arr. chron. by date of recording. Indexed alph. by name of mortgagor; also separate indexes, entries 87, 88. Typed. 600 pp. 19 x 12 x 3. Recr. off.

CHATTEL

93. CHATTEL MORTGAGES, June 12, 1935-. 4 f. d.

Original mortgages and contracts filed by mortgagees, covering:

- i. Chattel mortgages, showing information as in entry 94i.
- ii. Conditional sales contracts, showing information as in entry 94ii.

Arr. alph. by names of mortgagor or seller. No index. Typed. 7 x 16 x 25. Recr. off.

94. RECORDER'S CHATTEL MORTGAGE MINUTE BOOK, June 12, 1935-. 4 vols. (1-4).

Abstracts of chattel mortgages and conditional sales contracts, consisting of:

- i. Chattel mortgages, showing dates of mortgage, filing, and maturity; entry number; names of mortgagor and mortgagee; amount of mortgage; and description of property. Arr. alph. by name of mortgagor.
- ii. Conditional sales contracts, showing dates of contract and filing, entry number, names of seller and purchaser, amount of contract, and description of property. Arr. alph. by name of seller.

For indexes, see entries 87, 88. Hdw. 600 pp. 19 x 12 x 3. Recr. off.

95. CHATTEL MORTGAGE RECORD, 1880-June 10, 1935. 28 vols. (numbered irregularly). 1836-44 in Deed Record, entry 74; 1845-79 in Mortgage Record, entry 89.

Transcripts of mortgages executed to secure loans on personal property, showing dates of mortgage, recording, maturity, and satisfaction; number, amount, rate of interest, and conditions of mortgage; names of mortgagee and mortgagor; and description of property. Arr. chron. by date of recording. For indexes, see entries 87, 88. Hdw., 1880-June 1907; typed, July 3, 1907-June 10, 1935. 600 pp. 18 x 12 x 3. 13 vols., 1880-Oct. 24, 1924, bookroom 3; 12 vols., Oct. 29, 1924-Jan. 16, 1933, recr. vt.; 3 vols., Feb. 5, 1933-June 10, 1935, recr. off.

96. CHATTEL MORTGAGE INDEX MORTGAGEE, 1880-June 10, 1935. 4 vols. (5, 10-12).

Index to chattel mortgage record, entry 95, showing dates

of mortgage, satisfaction, and recording; names of mortgagee and mortgagor; description of property; amount of consideration; and volume and page reference to recording. Arr. alph. by name of mortgagee. Hdw. 600 pp. 18 x 12 x 3. 1 vol., 1880-Dec. 22, 1904, bookroom 3; 1 vol., Jan. 5, 1905-Dec. 16, 1925, recr. vt.; 2 vols., Jan. 2, 1926-June 10, 1935, recr. off.

97. CHATTEL MORTGAGE INDEX MORTGAGOR, 1880-June 10, 1935. 4 vols. (5, 10-12).

Index to chattel mortgage record, entry 95, showing information as in entry 96. Arr. alph. by name of mortgagor. Hdw. 600 pp. 18 x 12 x 3. 1 vol., 1880-Dec. 14, 1904, bookroom 3; 1 vol., Jan. 5, 1905-25, recr. vt.; 2 vols., 1926-June 10, 1935, recr. off.

98. RELEASE RECORD, 1871-78. 1 vol. 1836-70 in Deed Record, entry 74; 1879-in Mortgage Record, entry 89.

Record of mortgage releases, showing date, number, and amount of mortgage; names of mortgagee and mortgagor; dates of recording and foreclosure or satisfaction; and volume and page reference to mortgage record, entry 89. Arr. chron. by date of recording. No index. Hdw. 400 pp. 18 x 13 x 2½. Recr. vt.

For original releases, see entry 104vii.

LIENS

99. MECHANIC'S LIENS, Apr. 7, 1873-Oct. 19, 1885. 1 vol. 1836-52 in Deed Record, entry 74; 1853-Apr. 5, 1873. Oct. 26, 1885-in Miscellaneous Records, entry 105.

Transcripts of notices of liens against property to insure payments for labor and material, showing dates of lien and recording, names of lienor and lienee, amount of lien, and location and description of property. Arr. chron. by date of recording. Indexed alph. by names of lienor and lienee. Hdw. 292 pp. 13 x 20 x 2. Recr. vt.

For original mechanics liens, see entry 104vi.

100. IMPROVED STOCK LIEN RECORD, 1899-May 8, 1915. 1 vol. Record of liens executed to insure payments of stallion service fees, showing dates of service and recording, names and addresses of lienor and lienee, names and descriptions of mare and stallion, number of lien, and amount of fee. Arr. chron. by date of recording. Indexed alph. by names of lienor and lienee. Hdw. 500 pp. 18 x 12 x 3. Bookroom 3.

101. DITCH LIEN RECORD, June 3, 1907-. 1 vol.

Record of liens executed against real property to insure payments of assessments for ditch improvements, showing dates of filing, release, and recording; amount and conditions of lien; names of property owner, ditch, and construction engineer; amounts of construction and assessment; and location of property. Arr. chron. by date of recording. Indexed alph. by name of property owner. Typed June 3, 1907-July 14, 1924; hdw. Oct. 15, 1925-. 600 pp. 18 x 12 x 3. Recr. vt.

102. [OLD-AGE ASSISTANCE CERTIFICATES], June 11, 1936-. 2 f. d.

Duplicate of certificates of award of old-age assistance establishing liens against property of recipients, showing information as in entry 103. Arr. alph. by name of recipient. No index. Typed. 24 x 16 x 16. Recr. off.

For certificates of award of old-age assistance, see entries 377, 378i.

103. RECORDER'S ABSTRACTS OF OLD AGE ASSISTANCE CERTIFICATES FILED, June 11, 1936-. 1 vol.

Abstracts of certificates of award of old-age assistance establishing liens against property of recipients, showing date of recording, date and amount of certificate, name of recipient, and application number. Arr. chron. by date of recording. Indexed alph. by name of recipient. Hdw. 600 pp. 18 x 12 x 3. Recr. off.

For certificates of award of old-age assistance, see entries 377, 378i.

MISCELLANEOUS RECORDS

104. [ORIGINAL DOCUMENTS], 1836-. 141 f. b. (numbered irregularly).

Contains original documents left for recording and uncalled for, consisting of:

- i. Articles of incorporations, showing information as in entry 105ii. Arr. chron. by date of recording.
- ii. Assignments of mortgages, showing information as in entry 105v. Arr. chron. by date of assignment.
- iii. Certificates of elections of officers of churches and fraternal organizations, showing dates of certificate and recording; names of church, organization, and office; term of office; and names and addresses of officers. Arr. chron. by date of recording.

- iv. Chattel mortgages, 1836-June 11, 1935, showing information as in entry 94i. Arr. chron. by date of recording.
- v. Indenture of apprenticeship, 1836-June 9, 1903, showing information as in entry 107. Arr. chron. by date of recording.
- vi. Mechanics' liens, showing information as in entry 99. Arr. chron. by date of recording.
- vii. Mortgage releases, showing information as in entry 98. Arr. chron. by date of recording.
- viii. Quit claim deed, showing dates of deed and recording, names of grantor and grantee, location and description of property, and amount of consideration. Arr. chron. by date of recording.
- ix. Tax title deeds, 1840-, showing information as in entry 79. Arr. chron. by date of recording.
- x. Warranty deeds, showing information as in entry 74. Arr. chron. by date of recording.

No index. Hdw. and typed. 10 x 5 x 15. 69 f. b., 1836-99, bookroom 3; 72 f. b., 1900-, recr. off.

105. MISCELLANEOUS RECORDS, July 1, 1853-. 19 vols. (A-S). 1836-52 in Deed Record, entry 74.

Transcripts of documents, consisting of:

- i. Affidavits, showing dates of affidavit and recording, and name and statement of affiant. Arr. chron. by date of recording. Indexed alph. by name of affiant.
- ii. Articles of incorporation, showing dates of instrument and recording; names of corporation, officers, and stockholders; address and description of corporation; and amounts of bonds and stock. Arr. chron. by date of recording. Indexed alph. by name of corporation.
- iii. Bills of sales, showing dates of instrument and recording, names of vendor and vendee, amount and conditions of sale, and description of property. Arr. chron. by date of recording. Indexed alph. by names of vendor and vendee.
- iv. Leases, showing date of lease, date and time of recording, names of lessor and lessee, amount and conditions of lease, and location and description of property. Arr. chron. by date of recording. Indexed alph. by names of lessor and lessee.

- v. Mortgage assignments, showing dates of recording, mortgage, and assignment; names of mortgagor, mortgagee, and assignor; and amount of mortgage. Arr. chron. by date of recording. Indexed alph. by name of mortgagor.
- vi. Occasional recordings of options, certificate of election of church officials, agreements, easements, notice of assessments and resolutions, showing dates of instruments and recording, nature and conditions of instruments, and names of principals. Arr. chron. by date of recording. Indexed alph. by names of principals.
- vii. Powers of attorney, showing dates of instrument and recording, names of principal and agent, and nature of power granted. Arr. chron. by date of recording. Indexed alph. by names of principals.

Also contains: Cemetery deed record, 1853-July 1925, entry 76; quiet tile record, 1853-May 15, 1911, entry 78; mechanics' liens, 1853-Apr. 5, 1873, Oct. 26, 1835-, entry 99; and soldier's discharge record, 1854-1924, entry 108. Hdw. July 1, 1853-Dec. 8, 1904; typed Dec. 9, 1904-. 600 pp. 19 x 12 x 3. 1 vol., 1853-Aug. 11, 1866, recr. vt.; 18 vols., Aug. 12, 1866-, recr. off.

106. GENERAL INDEX, 1836-52. 1 vol.

Index to miscellaneous records in deed record, entry 74, showing date and kind of instrument, name of principals, and volume and page reference to recording. Arr. alph. by names of principals. Hdw. 500 pp. 18 x 12 x 3. Bookroom 3.

107. RECORD OF INDENTURES, 1853-June 9, 1903. 1 vol.

1836-52 in Deed Record, entry 74.

Record of agreements to assume obligations for care and education of children in return for services performed, showing dates of agreement and recording; names of child, master, and parent or guardian; and conditions of agreement. Arr. chron. by date of recording. Indexed alph. by name of child. Hdw. 225 pp. 18 x 9 x 1½. Bookroom 3.

108. SOLDIER'S DISCHARGE RECORD, 1925-. 1 vol. 1836-53 in Deed record, entry 74; 1854-1924 in Miscellaneous Record, entry 105.

Transcripts of discharge certificates recorded when requested by veterans, showing dates of enlistment, discharge, and recording; name, age, rank, branch of service, personal description, occupation, and place of birth of veteran; and reason for discharge. Arr. chron. by date of recording. Indexed alph. by name of veteran. Typed. 600 pp. 19 x 12 x 3. Recr. vt.

109. REGISTER OF FARM NAMES, June 26, 1913-Oct. 29, 1931. 1 vol.

Register of names assigned to farms for purpose of identifying farms and farm products, showing date of registration, names of farm and owner, and location and description of farm. Arr. chron. by date of recording. Indexed alph. by name of owner. Hdw. 250 pp. 10 x 6 x 2. Recr. vt.

110. MARKS AND BRANDS, 1836-77. 1 vol.

Record of notices of marks and brands for identification of livestock, showing dates of notice and recording, names of owner and township, description of mark or brand, and amount of fee. Arr. alph. by name of t. and chron. thereunder by date of recording. No index. Hdw. 550 pp. 18 x 12 x 2. Bookroom. 3.

FEE AND CASH RECORDS

111. FEE AND CASH BOOK, 1879-. 23 vols. (9 vols. unlabeled; 1-14). Title varies: Cash Book, 1879-Jan. 31, 1910, 9 vols. Nov. 15, 1839-73 in Entry Book, entry 72.

Record of fees collected for recording of instruments, showing date, number, and nature of instrument; name of payer; date and amount of collection; and date of payments to treasurer. Arr. chron. by date of collection. No index. Hdw. 362 pp. 15 x 11 x 2. 20 vols., 1879-Mar. 1932, recr. vt.; 3 vols., Apr. 1932-, recr. off.

MAPS

112. MAP OF MARSHALL COUNTY, 1899. 1 map.

Political and communication map, showing date of map; and names and locations of cities, towns, cemeteries, schools, churches, townships, rivers, creeks, ditches, railroads, and roads. Drawn by Everly and Cresener. Published by Goes Litho. Co., Chicago, Ill. Ptd. Scale: 1" to 1 mile. 5' x 5'. Recr. off.

113. HISTORICAL ATLAS OF THE STATE OF INDIANA, 1876. 1 vol.

Plat maps and history of counties, cities, and towns of State of Indiana; showing plat of counties, cities, towns, and villages; general history of State and counties; biographies of early leaders; business directory; general statistics; list of postoffices in State; and etchings of points of interest. Published by Baskin-Forster Co., Chicago, Ill. No scale given. 460 pp. 18 x 17 x 2. Recr. off.

114. STATE ENGINEERS, undated. 1 map.

Political and communication map of Indiana, showing location of paved and gravel roads, railroads, rivers, streams, cities, towns, and electric lines and names and boundaries of counties. Drawn by W. Elliott Judge, San Francisco, California. Ptd. Scale: 1" to 9 miles. 4' x 5'. Recr. off.

NEWSPAPERS

115. NEWSPAPERS, 1853-. 438 vols.

County newspapers procured by recorder, consisting of:

Plymouth Weekly Democrat, 1855-.

Bourbon News Mirror, 1872-.

Argos Reflector, 1881-92, 1895, 1897-.

Bremen Enquirer, 1887-.

Culver Citizen, 1903-20, 1923-.

Plymouth Daily Pilot, 1922-.

Plymouth Daily News, 1932-.

Plymouth Daily Democrat, 1902-32.

Plymouth Republican, 1879-1922.

Weekly Chronicle, 1904-11.

Plymouth Tribune, 1902-9.

Bourbon Advance, 1906-8.

Culver City Herald, 1896-1903.

Plymouth Independent, 1894-1902.

Bremen Banner, 1884-1887.

Bourbon Democrat, 1882-84.

Marshall County Republican, 1856-79.

Plymouth Mail and Magnet, 1875.

Plymouth Banner, 1853-1855.

Arr. chron. by date of publication. No index. Ptd. 600 pp. 26 x 18 x 2. Bookroom 1.

V. CIRCUIT COURT

EVOLUTION AND STRUCTURAL ORGANIZATION

The circuit court was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Marshall County since 1836. Since 1851 the court has been presided over by one judge elected for a 6-year term by the voters of the judicial circuit.¹ Since May 16, 1927

¹ Const. 1851, art. 7, secs. 1, 8, 9. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395. Acts 1925, 1929; Burns 4-3220; Baldwin 1258. See footnotes 17 and 19 herein.

Marshall County alone has constituted the seventy-second judicial circuit.² The official name of the court is "Marshall Circuit Court."³

The judge of the circuit court is commissioned by the Governor of Indiana⁴ and holds office until his successor is elected and qualified.⁵ For 3 years next before his candidacy for election the judge must have been duly admitted to practice law in Indiana and also must have practiced or taught law or acted as an officer of the State or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).⁶ During the term for which he was elected, the judge cannot hold any office of trust or profit under the State, other than a judicial office;⁷ and, while holding the office of judge of the circuit court, the judge must reside within the circuit,⁸ must not hold any other lucrative office,⁹ and must not practice law.¹⁰ He must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.¹¹

A statute provides that the judge of the circuit court shall receive a regular salary in the amount of \$4,200 per year, payable monthly out of the State treasury.¹² The constitution provides that an increase or decrease in the compensation of the judge cannot take effect until the expiration of the incumbent's term of office.¹³

If the judge be convicted of corruption or other high crime, he may, on information in the name of the State, be removed from office by the Supreme Court.¹⁴ This is the

² Before May 16, 1927, Marshall County belonged to judicial circuits composed of more than one county. See footnote 28 herein.

³ Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1396.

⁴ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁵ Const. 1851, art. 15, sec. 3.

⁶ Acts 1939; Burns, 1941 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

⁷ Const. 1851, art. 7, sec. 16.

⁸ *Ibid.*, sec. 9.

⁹ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

¹⁰ Acts 1881 (Spec. Sess.); ch. 37, sec. 114. Acts 1905; Burns 10-3101; Baldwin 2635.

¹¹ Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-5708.

Baldwin 1660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹² Acts 1921, 1941; Burns, 1941 suppl., 4-3209; Baldwin, 1941 suppl., 1225.

¹³ Const. 1851, art. 7, sec. 13; art. 15, sec. 2 (as amended in 1926).

¹⁴ *Ibid.*, art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

only method by which the judge may be removed from office.¹⁵

Any vacancy in the office of judge of the circuit court is filled through appointment by the Governor. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath as was required of his predecessor, and holds office until his successor is elected and qualified. The appointee holds office until January 1 next after the election of his successor.¹⁶

With the organization of Marshall County in 1836,¹⁷ there was established in the county, as required by the Constitution of 1816, a circuit court composed of a president judge and two associate judges. The president judge was elected for the circuit by joint ballot of both Houses of the General Assembly. The associate judges were elected in the county by the voters thereof.¹⁸ All judges were commissioned by the Governor and held office for the term of 7 years.¹⁹ Recess appointments of president judges were made by the Governor when the General Assembly was not in session.²⁰ The president judge alone or any two judges could hold a court; but the presence of the president was required in capital-punishment cases and cases in chancery. The president judge presided when he and one or both associate judges were present. The president judge could control the action of the court when he and one associate judge were present; and any two judges could control the action of the court when all three judges were present.²¹ Since the adoption

¹⁵ *State v. Dearth*, 201 Ind. 1, 164 N. E. 489 (1929); *State ex rel. Youngblood v. Warrick Circuit Court*, 208 Ind. 594, 196 N. E. 254 (1935). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 29, 1939, by W. Davis Hamilton.

¹⁶ Const. 1851, art. 5, sec. 18. Acts 1825, 1929; Burns 4-3220; Baldwin 1258. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. *State ex rel. Custer v. Schortemeier*, 197 Ind. 507, 151 N. E. 407 (1926); *State ex rel. Middleton v. Scott Circuit Court*, 214 Ind. 643, 17 N. E. (2d) 464 (1938).

¹⁷ Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

¹⁸ Const. 1816, art. 5, secs. 3, 7. Rev. L. 1831, ch. 22, sec. 2. Rev. Stat. 1838, ch. 23, sec. 2. Rev. Stat. 1843, ch. 38, secs. 1-4.

¹⁹ Const. 1816, art. 5, sec. 4; art. 11, sec. 9.

²⁰ *Ibid.*, art. 4, sec. 9.

²¹ *Ibid.*, art. 5, sec. 3. *Fuller v. State*, 1 Blackford 63 (1820); *Cook v. State*, 7 Blackford 165 (1844); *Miller v. Burger*, 2 Ind. 337 (1850).

of the Constitution of 1851, the circuit court has been presided over by one judge elected by the voters of the judicial circuit for a 6-year term.²²

The circuit court existing under the Constitution of 1816 had original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the State laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace had exclusive original jurisdiction); all civil actions at law; and all equity cases (including suits for divorce).²³ This circuit court had appellate jurisdiction to review decisions of the board doing county business,²⁴ justices of the peace,²⁵ and the probate court.²⁶ Decisions of this circuit court were reviewable by the Supreme Court of Indiana.²⁷

From the organization of the Marshall Circuit Court until the present time, Marshall County has belonged to the following judicial circuits: April 1, 1836 until December 9, 1836, eighth circuit (Adams, Allen, Cass, Elkhart, Fulton, Huntington, Jav, Kosciusko, Lagrange, La Porte, Marshall, Miami, Noble, Porter, St. Joseph, and Wabash); December 9, 1836 until March 6, 1873, ninth circuit (Carroll, Cass, Elkhart, Fulton, Jasper, Kosciusko, Lake, La Porte, Marshall, Miami, Porter, Pulaski, St. Joseph, Starke, and White); March 6, 1873 until March 9, 1875, thirty-third circuit (Fulton, Kosciusko, and Marshall); March 9, 1875 until May 16, 1927, forty-first circuit (Fulton and Marshall); May 16, 1927 to date, seventy-second circuit (Marshall).

²² Const. 1851, art. 7, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-301; 1395.

²³ U. S. Stat., 2:153, 155 (law of 1802); 4:69 (law of 1824). Const. 1816, art. 5, sec. 3. Rev. L. 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23, secs. 3-7, 12; ch. 31, sec. 1. Rev. Stat. 1843, ch. 35, secs. 22-72; ch. 38, secs. 6-32. *Prentiss v. Porter*, 1 Blackford 525 (1827); *Mills v. Bradley*, 1 Blackford 541 (1827); *State v. Albertson*, 2 Blackford 251 (1829); *Bequette v. Lasselle*, 5 Blackford 443 (1840); *Sherry v. Winton*, 1 Ind. 96 (1848). See the essay entitled "Probate Court (1836-53)."

²⁴ Rev. Stat. 1838, ch. 21, secs. 28, 29; ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43; ch. 11, sec. 11; ch. 16, sec. 56; ch. 17, sec. 18. *Reddington v. Hamilton*, 8 Blackford 62 (1840); *Taylor v. Lucas*, 8 Blackford 289 (1846); *Malone v. Hardesty*, 1 Ind. 79 (1848).

²⁵ Acts 1816-17, ch. 5, sec. 18. Rev. Stat. 1838, ch. 4, sec. 5; ch. 6, secs. 5, 11; ch. 19, sec. 16; ch. 43, sec. 6; ch. 58, secs. 11, 80, 90; ch. 79; sec. 21. Rev. Stat. 1845, ch. 19, secs. 23, 46; ch. 23, sec. 10; ch. 35, sec. 162; ch. 41, secs. 11, 42, 43; ch. 42, sec. 63; ch. 43, secs. 9-13; ch. 45, secs. 173-176, 193, 216; ch. 47, secs. 159-182; ch. 55, sec. 21.

²⁶ See the essay entitled "Probate Court (1836-53)."

²⁷ Rev. L. 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91.

Every county that was in the designated circuits at any time during the designated periods is shown above. There were numerous transfers of counties to and from the circuits during those periods. Before March 16, 1927 Marshall County belonged to judicial circuits always composed of more than one county. Since May 16, 1927 Marshall County alone has constituted the seventy-second circuit.²⁸

FUNCTIONS AND RECORDS

The circuit court has original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the State laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction); proceedings to punish the violators of town ordinances; all civil actions at law; all suits in equity;²⁹ divorce and alimony proceedings;³⁰

²⁸ Acts 1834-35 (general), ch. 23, sec. 7; ch. 25, sec. 9. Acts 1835-36 (general), ch. 8, sec. 3; ch. 15, sec. 7; ch. 16, sec. 7; ch. 17, secs. 1, 7; ch. 18, sec. 5; ch. 20, sec. 7; ch. 21, sec. 8. Acts 1836-37 (general), ch. 8, secs. 2, 4; ch. 17. Acts 1836-37 (local), ch. 192, sec. 1. Acts 1838-39 (general), ch. 2, sec. 1. Acts 1840-41 (general), ch. 19, sec. 1; ch. 25, sec. 1. Acts 1841-42 (general), ch. 28, sec. 1; ch. 27, sec. 3. Acts 1849-50 (general), ch. 258, sec. 3. Acts 1851-52, ch. 21, sec. 9. Acts 1853, ch. 23, secs. 1, 4. Acts 1855, ch. 25, sec. 1. Acts 1873, ch. 29, sec. 34. Acts 1875, ch. 35, sec. 3. Acts 1927, ch. 12, sec. 1.

²⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. State ex rel. Robertson v. Lake Circuit Court, 215 Ind. 18, 17 N. E. (2d) 805 (1939).

Legislature's power to prescribe jurisdiction. Board of County Comrs. v. Albright, 168 Ind. 564, 81 N. E. 578 (1907).

Naturalization proceedings. *U. S. Stat.*, 2:153, 155 (law of 1802); 4:69 (law of 1824). *U. S. C.*, title 8, sec. 357 (laws of 1906, 1911, 1913).

Criminal cases within exclusive jurisdiction of justices of the peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

Proceedings to punish violators of town ordinances. Acts 1905; Burns 48-401; Baldwin 11359.

Power to declare statute unconstitutional, State v. Clements, 215 Ind. 666, 22 N. E. (2d) 819 (1939).

"Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal views, and even though it shocks our sense of justice and fairness." State v. Brown, 213 Ind. 118, 124, 11 N. E. (2d) 679 (1937).

³⁰ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873, 1933; Burns 3-1203, 3-1217; Baldwin 904, 926. Acts 1903; Burns 3-1232; Baldwin 935. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. *McHie v. McHie*, 106 Ind. App. 152, 16 N. E. (2d) 987 (1938). *Argiroff v. Argiroff*, 215 Ind. 297, 19 N. E. (2d) 560 (1939).

declaratory judgment proceedings;³¹ juvenile matters;³² insanity inquests and commitments;³³ election contests;³⁴ proceedings for removal of county officers;³⁵ quo warranto proceedings;³⁶ proceedings for mandate, prohibition,³⁷ and injunction;³⁸ proceedings to quiet title to real estate;³⁹ partition proceedings;⁴⁰ replevin proceedings;⁴¹ habeas corpus proceedings;⁴² proceedings to commit persons to hospitals operated by Indiana University;⁴³ eminent domain proceedings;⁴⁴ proceedings to establish drainage districts and

³¹ Acts 1927; Burns 3-1131 to 3-1116; Baldwin 438-453.

³² Acts 1867, ch. 67 (misnumbered 62), secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Act. 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58. Acts 1903, ch. 237, sec. 1. Acts 1913, ch. 325, sec. 1, Acts 1931, ch. 43, sec. 1. Acts 1935, ch. 243, sec. 1. Acts 1937, ch. 298, sec. 1. Acts 1941, ch. 233. *Dumes v. Deckard*, 105 Ind. App. 674, 17 N. E. (2d) 481 (1938).

³³ 2 Rev. Stat. 1852, Acts 1895; Burns 8-202 *et seq.*; Baldwin 3460 *et seq.* Acts 1855; Burns 22-1401 *et seq.*; Baldwin 1081 *et seq.* Acts 1939; Burns, 1941 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

³⁴ Acts 1941; Burns, 1941 suppl., 29-2123; Baldwin, 1941 suppl., 7401-3. Acts 1933, 1935; Burns, 1941 suppl., 29-2701 to 29-2709; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan*, 214 Ind. 279, 15 N. E. (2d) 384 (1938).

³⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 12052. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

³⁶ Acts 1881 (Spec. Sess.), 1929; Burns 3-2001 to 3-2016; Baldwin 1045, 1046, 1054, 1047 to 1053, 1055 to 1060.

³⁷ Acts 1881 (Spec. Sess.), 1911, 1915, 1933; Burns 3-2201 to 3-2208; Baldwin 1090 to 1093, 1095, 1095-1, 1096, 1097.

³⁸ Acts 1881 (Spec. Sess.), 1899; Burns 3-2101 to 3-2120; Baldwin 1061 to 1080.

³⁹ Acts 1881 (Spec. Sess.), 1911, 1915; Burns 3-1401 to 3-1410; Baldwin 966, 3303, 3304, 967, 942, 943, 970, 969, 968, 968 note. Acts 1935; Burns, 1941 suppl., 3-1417, 3-1418; Baldwin 1935 suppl., 558-1, 558-2. *Grantham Realty Corp. v. Bowers*, 215 Ind. 672, 22 N. E. (2d) 832 (1939).

⁴⁰ 2 Rev. Stat. 1852, Acts 1881 (Spec. Sess.), 1897; Burns 3-2401 *et seq.*; Baldwin 1106 *et seq.*

⁴¹ Acts 1881 (Spec. Sess.); Burns 3-2301 to 3-2307; Baldwin 1102, 1105, 1098, 1099, 1100, 1101, 1103.

⁴² Acts 1881 (Spec. Sess.); Burns 3-1901 to 3-1925; Baldwin 1020 *et seq.* *Kunkel v. Meneyhon*, 214 Ind. 606, 17 N. E. (2d) 82 (1938). *Cook v. Rodgers*, 215 Ind. 500, 20 N. E. (2d) 648 (1939).

⁴³ Acts 1939; Burns, 1941 suppl., 28-5417; Baldwin, 1939 suppl., 14078-88c

⁴⁴ Acts 1905, 1935; Burns, 1941 suppl., 3-1702; Baldwin, 1935 suppl., 14062. Acts 1905. Burns 3-1707; Baldwin 14068. *Southern Indiana Gas & Elec. Co. v. Booneville*, 215 Ind. 552, 20 N. E. (2d) 648 (1939).

assessments;⁴⁵ proceedings for change of names of persons;⁴⁶ adoption proceedings;⁴⁷ birth registration proceedings;⁴⁸ receiverships;⁴⁹ bastardy proceedings;⁵⁰ guardianships;⁵¹ probate of wills;⁵² and administration of estates of decedents,⁵³ minors, and insane persons.⁵⁴ The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.⁵⁵ In connection with its jurisdiction to administer decedents' estates, the court administers certain provisions of the inheritance tax laws.⁵⁶

The circuit court has appellate jurisdiction⁵⁷ to review decisions of justices of the peace;⁵⁸ city courts;⁵⁹ board of commissioners;⁶⁰ board of commissioners and county council acting jointly concerning condemnation of schoolhouses;⁶¹ board of review fixing value of property for taxation;⁶²

⁴⁵ Acts 1933; Burns 27-104, 27-109, 27-116, 27-122, 27-134; Baldwin 5740, 5745, 5752, 5758, 5770. Penn v. Ducomb, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

⁴⁶ 2 Rev. Stat. 1852, 1905; Burns 3-801 to 3-805; Baldwin 869 to 873.

⁴⁷ Acts 1855, 1883; Burns 3-101, 3-103; Baldwin 681, 684.

⁴⁸ Acts 1941; Burns, 1941 suppl., 3-2501 to 3-2907; Baldwin, 1941 suppl., 8405-1 to 8405-7.

⁴⁹ Acts 1881 (Spec. Sess.); Burns 3-2601 *et seq.*; Baldwin 1143 *et seq.* H. A. Circus Operating Corp. v. Silverstein, 215 Ind. 413, 19 N. E. (2d) 1013 (1939).

⁵⁰ 2 Rev. Stat. 1852; Burns 3-606 to 3-614, 3-616; Baldwin 851, 855, 856, 859, 852, 854, 857, 858, 860, 865. 2 Rev. Stat. 1852, 1877, 1935; Burns, 1941 suppl., 3-605, 3-615; Baldwin, 1935 suppl., 850, 861.

⁵¹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. 2 Rev. Stat. 1852; Burns 8-101 *et seq.*, 8-201 *et seq.*; Baldwin 3418 *et seq.*, 3459 *et seq.* Acts 1911; Burns 8-301 *et seq.*; Baldwin 3472 *et seq.* Acts 1867; Burns 8-401 to 8-403; Baldwin 3476 to 3478.

⁵² Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3388, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395.

⁵³ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

⁵⁴ See footnotes 33 and 50 herein.

⁵⁵ See footnote 32 herein.

⁵⁶ Acts 1931, 1933; Burns 6-2408, 6-2410, 6-2413, 6-2415; Baldwin 15946, 15948, 15951, 15953. Acts 1931, 1933, 1937; Burns, 1941 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

⁵⁷ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

⁵⁸ 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

⁵⁹ Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12339.

⁶⁰ Acts 1859, 1939, 1941; Burns, 1941 suppl., 26-701; Baldwin, 1941 suppl., 16055. Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1923; Burns 27-117; Baldwin 5753. Acts 1905; Burns 36-1501; Baldwin 8858. State ex rel. Sink v. Cass Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

⁶¹ Acts 1931; Burns 28-3005; Baldwin 6147.

⁶² Acts 1927; Burns 64-1020; Baldwin 15686.

taxing authorities determining that property is taxable;⁶³ board of public works or board of park commissioners of any city in the county (or city council performing such functions);⁶⁴ and other inferior tribunals when no express direction is given as to the court to which the appeal lies.⁶⁵

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish for contempt; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);⁶⁶ and to adopt rules for conducting its business.⁶⁷ Decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.⁶⁸

The judge of the circuit court is a conservator of the peace throughout his judicial circuit,⁶⁹ and takes all necessary recognizances to keep the peace "or to answer any criminal charge or offense in the court having jurisdiction."⁷⁰ He is a member of the commission of public records.⁷¹ He appoints one member of the county school fund board,⁷² five members of the county board of public welfare,⁷³ two members of the county board of review,⁷⁴ and four members of the county board of tax adjustment.⁷⁵ He appoints eight members of the county hospital governing board,⁷⁶ three members of the county public library board,⁷⁷ and five trustees of a sanitary district,⁷⁸ when such boards and district exist

⁶³ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

⁶⁴ Acts 1933; Burns 48-4501; Baldwin 11576.

⁶⁵ *Hamilton v. Fort Wayne*, 73 Ind. 1 (1880).

⁶⁶ 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

Contempt. Universal Credit Co. v. Talcott, 213 Ind. 228, 12 N. E. (2d) 141 (1938).

⁶⁷ 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

⁶⁸ 2 Rev. Stat. 1852, ch. 1, sec. 550, p. 158. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

⁶⁹ Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

⁷⁰ 2 Rev. Stat. 1852; Burns 4-314; Baldwin 1407. *State v. Cooper*, 90 Ind. 575 (1883).

⁷¹ Acts 1939; Burns, 1941 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

⁷² Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁷³ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

⁷⁴ Acts 1895, ch. 36, sec. 2. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁷⁵ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁷⁶ Acts 1903, 1939; Burns, 1941 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

⁷⁷ Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁷⁸ Acts 1913, 1919, 1931; Burns 48-4102; Baldwin 11721.

in the county. He may appoint two tobacco inspectors for the county,⁷⁹ special prosecuting attorneys (in case of disqualification or failure to attend court),⁸⁰ special county commissioners (in case of disqualification),⁸¹ probate commissioner,⁸² and attorneys to represent poor persons in the circuit court.⁸³ He approves the official bonds of the prosecuting attorney,⁸⁴ the county director of public welfare,⁸⁵ and collection agencies.⁸⁶ He makes certificates of "qualification and moral character" concerning persons applying to the Governor of Indiana for appointments as notaries public.⁸⁷ He can solemnize marriages,⁸⁸ administer oaths,⁸⁹ take acknowledgments and proofs of deeds and other documents,⁹⁰ waive certain provisions of the marriage license law requiring laboratory tests and medical certificates,⁹¹ issue licenses for carrying pistols,⁹² and certify as to the authenticity of transcripts of the records and proceedings of the court.⁹³

In pursuance of appropriations by the county council,⁹⁴ the judge of the circuit court may make allowances against

⁷⁹ Acts 1857; Burns 67-308; Baldwin 9461.

⁸⁰ Rev. L. 1824, ch. 24, sec. 12. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State*, 197 Ind. 401, 141 N. E. 52 (1926); *State ex rel. Williams v. Ellis*, 184 Ind. 307, 112 N. E. 98 (1916); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

⁸¹ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

⁸² Acts 1891, 1897, 1911; Burns 6-104; Baldwin 3015.

⁸³ Acts 1881 (Spec. Sess.); Burns 2-211; Baldwin 26. Acts 1913; Burns 2-1417; Baldwin 199. Acts 1905; Burns 9-1314; Baldwin 2235. Op. Atty. Gen. 1939, p. 351.

⁸⁴ 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

⁸⁵ Acts 1936 (Spec. Sess.). 1937; Burns, 1941 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

⁸⁶ Acts 1937; Burns, 1941 suppl., 10-5001; Baldwin, 1937 suppl., 2468-5.

⁸⁷ 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

⁸⁸ Acts 1897; Burns 44-301; Baldwin 5621.

⁸⁹ 2 Rev. Stat. 1852; Burns 4-312; Baldwin 1405. Acts 1861; Burns 49-601; Baldwin 13053.

⁹⁰ 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

⁹¹ Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁹² Acts 1935, 1937; Burns, 1941 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

⁹³ Acts 1881 (Spec. Sess.); Burns 2-1605, 2-1617, 2-3106; Baldwin 273, 258, 459. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520; Baldwin 392. Acts 1903, 1933; Burns 2-3112; Baldwin 466. 2 Rev. Stat. 1852; Burns 4-307; Baldwin 1400. Acts 1905; Burns 9-2103; Baldwin 2315.

⁹⁴ Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

the county for expense of administration of justice.⁹⁵ Such allowances include compensation of witnesses,⁹⁶ jurors,⁹⁷ master commissioners,⁹⁸ sheriff,⁹⁹ bailiffs,¹⁰⁰ court reporter,¹⁰¹ court page,¹⁰² and attorneys appointed to represent poor persons.¹⁰³

An act of 1927 provides for two terms of court each year in Marshall County, beginning on the first Monday in January and September, the first term ending on the first Saturday in July and the second term ending on the last Saturday in December.¹⁰⁴ Many laws were enacted by the Legislature before 1927 for the purpose of regulating the commencement and duration of terms of court in Marshall County.¹⁰⁵

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary

⁹⁵ Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

⁹⁶ 1 Rev. Stat. 1852; Burns 9-2403; Baldwin 1306.

⁹⁷ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

⁹⁸ Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

⁹⁹ Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

¹⁰⁰ Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. Op. Atty. Gen. 1939 p. 312.

¹⁰¹ Acts 1921, 1939; Burns 1941 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

¹⁰² Op. Atty. Gen. 1939 p. 312.

¹⁰³ Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2235. Op. Atty. Gen. 1939 p. 351.

¹⁰⁴ Acts 1927, ch. 12, sec. 1.

¹⁰⁵ Acts 1835-36 (general), ch. 8, sec. 3. Acts 1836-37 (general), ch. 8, sec. 4. Rev. Stat. 1838, ch. 23 (eighth act), sec. 2, p. 169. Acts 1838-39 (general), ch. 2, sec. 10. Acts 1840-41 (general), ch. 19, sec. 1. Acts 1841-42 (general), ch. 27, sec. 1. Acts 1842-43 (general), ch. 5, secs. 1, 3. Acts 1843-44 (general), ch. 6, secs. 1, 3. Acts 1845-46 (general), ch. 51, sec. 1. Acts 1846-47 (general), ch. 59, secs. 1, 3. Acts 1851-52, ch. 22, sec. 1. Acts 1853, ch. 27, secs. 1, 2. Acts 1855, ch. 23, secs. 1, 2. Acts 1859, ch. 31, secs. 1, 2. Acts 1869 (Spec. Sess.), ch. 24, sec. 1. Acts 1873, ch. 29, sec. 72. Acts 1875, ch. 35, sec. 6. Acts 1877, ch. 28, sec. 1. Acts 1887, ch. 33, sec. 1. Acts 1889, ch. 8, sec. 1. Acts 1905, ch. 144, sec. 1. Acts 1907, ch. 30, sec. 1. Acts 1911, ch. 191, sec. 1.

judge to serve until the return of the regular judge or until his successor is named.¹⁰⁶

If for nine months the regular judge is incapable (on account of sickness, mental incapacity, or otherwise) of discharging his duties, and the clerk certifies the facts to the Secretary of State, the Governor may appoint some practicing attorney within the circuit to serve as judge pro tempore during the continuance of the disability of the regular judge.¹⁰⁷

If the regular judge is disqualified in any particular cause by prejudice, relationship, or interest, and no party objects to the regular judge making nominations for a special judge, the regular judge may designate the names of three other judges or attorneys, and the plaintiff and defendant may each strike one of such names. The person whose name remains after such striking may serve as special judge in that particular cause. If a party objects to the regular judge making such nominations, the clerk certifies the facts to the clerk of the supreme court, who, acting under the direction of the Supreme Court, selects the names of three persons; and each party may strike one name as aforesaid. If the parties agree on the selection of a special judge, the regular judge will appoint the person thus selected.¹⁰⁸

The judge of the fifth judicial district of the Supreme Court of Indiana (Michael L. Fansler) may preside at the trial of any case pending in Marshall Circuit Court when the judge of the latter court is "incompetent to preside."¹⁰⁹

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes all

¹⁰⁶ 2 Rev. Stat. 1852, ch. 4, secs. 4, 17, pp. 6, 7. Acts 1855; Burns 4-317; Baldwin 1423. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

¹⁰⁷ Acts 1871; Burns 4-317 to 4-319; Baldwin 1423 to 1425.

¹⁰⁸ 2 Rev. Stat. 1852, ch. 4, secs. 3, 4, pp. 5, 6, Acts 1905, 1907; Burns 2-1409; Baldwin 207. Acts 1881 (Spec. Sess.), 1921, 1932 (Spec. Sess.), 1941; Burns, 1941 suppl., 2-1416; Baldwin, 1941 suppl., 209, Acts 1937; Burns, 1941 suppl., 2-1424 to 2-1430, 9-1316 to 9-1325; Baldwin, 1937 suppl., 207-1 to 207-5, 194-1, 2223-1, 2222-1 to 2222-5, 2223-2 to 2223-5. State ex rel. Daily v. Harrison, 215 Ind. 106, 18 N. E. (2d) 770 (1939); State ex rel. Elston v. Decker, 215 Ind. 457, 20 N. E. (2d) 179 (1939).

¹⁰⁹ Acts 1872 (Spec. Sess.); Burns 4-102; Baldwin 1308. 2 Rev. Stat. 1852; Burns 4-113; Baldwin 1321. *Roster of State and Local Officials of the State of Indiana, 1941*, p. 8. Information obtained from Paul Stump, Clerk of the Supreme Court, on April 26, 1940, by W. Davis Hamilton.

process of the court.¹¹⁰ Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy performs these duties.¹¹¹ In the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office, the coroner performs these duties of the sheriff;¹¹² and in the event also of the absence, personal interest, or incapacity of the coroner, or vacancy in his office, the judge appoints an elisor to perform these duties of the sheriff.¹¹³

The prosecuting attorney acts as attorney for the State in criminal cases under State laws and as attorney for the county and State in certain civil cases.¹¹⁴

The probation officer (appointed by the judge for an indefinite term) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.¹¹⁵ The county director of public welfare performs duties of the probation officer when so directed by the court.¹¹⁶

The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.¹¹⁷

Two jury commissioners (annually appointed by the judge)

¹¹⁰ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494. See the essay entitled "Sheriff."

¹¹¹ 1 Rev. Stat. 1852, ch. 3, sec. 4. 2, Rev. Stat. 1852, ch. 6, sec. 4, p. 11. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938). Op. Atty. Gen. 1939, p. 312.

¹¹² 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

¹¹³ 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

¹¹⁴ 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. *Freed v. Martin Circuit Court*, 214 Ind. 152, 14 N. E. (2d) 910 (1938); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1070 (1938). See the essay entitled "Prosecuting Attorney."

¹¹⁵ See the essay entitled "Probation Officer."

¹¹⁶ Acts 1936 (Spec. Sess.); 1941 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

¹¹⁷ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

prepare lists of names from which grand juries and petit juries are drawn.¹¹⁸

The court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.¹¹⁹

The clerk of the circuit court, in person or by deputy, performs numerous duties for the circuit court. All new actions and proceedings of the circuit court are filed in the office of the clerk, and are numbered in consecutive order as filed.¹²⁰ He is charged by statute with the duty of keeping and preserving the official records of the court.¹²¹

The clerk files pleadings and other court papers and endorses thereon the time of such filing.¹²² He issues summonses,¹²³ notices for service by publication,¹²⁴ notices of birth registration proceedings,¹²⁵ attachment writs,¹²⁶ garnishment writs,¹²⁷ replevin writs,¹²⁸ ejectment writs,¹²⁹

¹¹⁸ Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267. *Crickmore v. State*, 213 Ind. 586, 12 N. E. (2d) 266 (1938); *Johnson v. State*, 213 Ind. 659, 14 N. E. (2d) 96 (1938); *Foreman v. State*, 214 Ind. 79, 14 N. E. (2d) 546 (1938). See the essay entitled "Jury Commissioners."

¹¹⁹ *Dunn v. State ex rel. Corydon*, 204 Ind. 390, 184 N. E. 535 (1933). *Op. Atty. Gen.* 1939, p. 312.

¹²⁰ Acts. 1881 (Spec. Sess.); Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. See the essay entitled "Clerk of the Circuit Court."

¹²¹ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹²² Rev. L. 1824, ch. 73, secs. 1, 7, 15, 27; ch. 74, secs. 1, 18-21, 33, 41; ch. 79, secs. 8, 38. Rev. Stat. 1843, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

¹²³ Rev. L. 1824, ch. 24, sec. 7; ch. 73, secs. 1, 2, 10, 22; ch. 74, secs. 2, 3, 9-11, 24. Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

Summonses in criminal cases. Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905; Burns 9-1013; Baldwin 2138.

¹²⁴ Rev. L. 1824, ch. 73, sec. 3. Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1941 suppl., 2-807; Baldwin, 1935 suppl., 88.

¹²⁵ Acts 1941; Burns, 1941 suppl., 3-2902; Baldwin, 1941 suppl., 8405-2.

¹²⁶ Rev. L. 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

¹²⁷ Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

¹²⁸ Acts 1881 (Spec. Sess.); Burns 3-2703, 3-2704; Baldwin 1200, 1201.

¹²⁹ Acts 1927; Burns 3-1305; Baldwin 945.

habeas corpus writs,¹³⁰ warrants,¹³¹ commitments,¹³² executions,¹³³ witness subpoenas,¹³⁴ letters of guardianship,¹³⁵ letters testamentary, and letters of administration.¹³⁶ He takes depositions of witnesses;¹³⁷ approves and files judicial bonds,¹³⁸ including bonds of executors, administrators,¹³⁹ and guardians;¹⁴⁰ administers and files the official oaths of executors, administrators,¹⁴¹ and guardians;¹⁴² and performs the statutory and customary duties of clerk at trials.¹⁴³

The clerk keeps dockets, order books, judgment records, final record books,¹⁴⁴ inheritance tax record,¹⁴⁵ receivership

¹³⁰ Acts 1881 (Spec. Sess.); Burns 3-1909; Baldwin 1044.

¹³¹ Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin. 1937 suppl., 2134. Acts 1905; Burns 9-1003, 9-2237; Baldwin 2136, 2347.

¹³² Acts 1905, 1939; Burns, 1941 suppl., 9-725; Baldwin, 1939 suppl., 2094. Acts 1905, 1927; Burns 9-2228; Baldwin 2335.

¹³³ Rev. L. 1824, ch. 10, sec. 1; ch. 74, sec. 55. Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524. Acts 1905; Burns 9-2226; Baldwin 2332.

¹³⁴ Rev. L. 1824, ch. 74, sec. 16. Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

¹³⁵ 2 Rev. Stat. 1852; Burns 8-101; Baldwin 3418. State ex rel. Cecil v. Christian, 13 Ind. App. 308, 41 N. E. 603 (1895).

¹³⁶ Rev. L. 1824, ch. 79, sec. 4. Acts 1881 (Spec. Sess.), 1901; Burns 6-201, 6-301; Baldwin 3025, 3030. McCool v. Old National Bank in Evansville, 214 Ind. 679, 17 N. E. (2d) 820 (1938).

¹³⁷ Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

¹³⁸ Rev. L. 1831, ch. 6, secs. 1, 26. Acts 1881 (Spec. Sess.); Burns 2-3209, 2-3402, 3-303, 3-508, 3-519, 6-501, 6-1506, 6-2001; Baldwin 484, 538, 726, 776, 788, 3048, 3229, 3277. 2 Rev. Stat. 1852; Burns 7-502; Baldwin 3396. 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421.

Releasing cost bond. Op. Atty. Gen. 1939, p. 9.

¹³⁹ Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 6-501, 6-1128; Baldwin, 1939 suppl., 3048, 3169. Acts 1881 (Spec. Sess.); Burns 6-502, 6-804; Baldwin 3049, 3085.

¹⁴⁰ 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

¹⁴¹ Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 6-501; Baldwin, 1939 suppl., 3048.

¹⁴² 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

¹⁴³ Rev. L. 1831, ch. 15, sec. 1. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁴⁴ Rev. L. 1824, ch. 73, sec. 15; ch. 74, secs. 15, 33, 55. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, ch. 1, sec. 358, p. 119. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852, Acts 1885 (Spec. Sess.), 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-3276; Baldwin 500.

¹⁴⁵ Acts 1913, ch. 47, secs. 17-18. Acts 1931, 1933, 1937; Burns, 1941 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

records,¹⁴⁶ a "birth certificate record" (an index to judgments in birth registration proceedings),¹⁴⁷ guardianship records,¹⁴⁸ records concerning the administration of decedents' estates,¹⁴⁹ and records of redemptions from judicial sales.¹⁵⁰ He files and records orders, judgments,¹⁵¹ indictments,¹⁵² recognizances,¹⁵³ notices of lis pendens,¹⁵⁴ probated wills,¹⁵⁵ inventories and accounts of trustees,¹⁵⁶ sheriff's certificates of sale of real estate,¹⁵⁷ and warrants issued by the State Department of Treasury for the collection of gross income taxes.¹⁵⁸

The clerk makes arrangements for the admission of feeble-minded persons to the Fort Wayne State School or the Muscatatuck Colony, after the judge has entered an order of commitment thereto;¹⁵⁹ files coroner's inquest papers

¹⁴⁶ Acts 1911; Burns 3-2607; Baldwin 1147.

¹⁴⁷ Acts 1941; Burns, 1941 suppl., 3-2906; Baldwin, 1941 suppl., 8405-6.

¹⁴⁸ Acts 1846-47 (general), ch. 54, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205, 6-2206; Baldwin 3014, 3288. Acts 1889; Burns 8-137; Baldwin 3424.

¹⁴⁹ Rev. L. 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205, 6-2206; Baldwin 3014, 3288.

¹⁵⁰ Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

¹⁵¹ Rev. L. 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410; Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁵² 2 Rev. Stat. 1852, ch. 1, sec. 68, p. 369 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126. Neal v. State, 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950 (1938).

¹⁵³ Acts 1881 (Spec. Sess.); Burns 2-3402; Baldwin 538. Acts 1905, 1927, 1933; Burns 9-723, 9-1039, 9-1042; Baldwin 2092, 2163, 2175. 2 Rev. Stat. 1852; Burns 49-2507; Baldwin 5441.

¹⁵⁴ Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97 to 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1. Pfeiffer Hardware Co. v. Auburn State Bank, 104 Ind. App. 472, 8 N. E. (2d) 398 (1937).

¹⁵⁵ Domestic probate. Acts 1817-18 (general), ch. 13, sec. 2. Acts 1881 (Spec. Sess.). 1883; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3385.

Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

¹⁵⁶ Acts 1937; Burns, 1941 suppl., 6-2514; Baldwin, 1937 suppl., 3221-14.

¹⁵⁷ These certificates and assignments thereof are recorded in the lis pendens record. Acts 1881 (Spec. Sess.); Burns 2-3909; Baldwin 622.

¹⁵⁸ These warrants are recorded in the judgment record. Acts 1933, 1937; Burns, 1941 suppl., 64-2613(a); Baldwin, 1937 suppl., 15993(a). Op. Atty. Gen. 1938, p. 303.

¹⁵⁹ Acts 1939; Burns, 1941 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

(including recognizances, written evidence, verdict, and report);¹⁶⁰ receives money deposited in court pending the decisions of the court;¹⁶¹ and receives payments on judgments of record in his office.¹⁶²

The clerk draws up each day's proceedings at full length in the proper order book (which is signed by the judge); enters in a final record book a complete record of causes finally determined;¹⁶³ furnishes certified copies of papers and records on file in his office;¹⁶⁴ and prepares and certifies transcripts of proceedings for change of venue from the county¹⁶⁵ or for appeal to a higher court.¹⁶⁶ He prepares budget estimates for the circuit court;¹⁶⁷ makes reports to the county auditor and Auditor of State concerning the fines imposed by the court and the collections thereof; makes fee reports to the county auditor; and pays fines and fees to the county treasurer.¹⁶⁸

The clerk keeps the jury box containing names selected by the jury commissioners (the key thereto being kept by a jury commissioner), draws therefrom names of persons to serve on the grand jury and petit jury, records their names

¹⁶⁰ 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2907 to 49-2909; Baldwin 5441 to 5443.

¹⁶¹ Acts 1881 (Spec. Sess.); Burns 2-4711; Baldwin 1214. Acts 1905; Burns 2-4712, 9-1026; Baldwin 1213, 2160.

¹⁶² Acts 1875; Burns 49-2719; Baldwin 1438.

¹⁶³ Rev. L. 1824, ch. 10, sec. 1; ch. 74, sec. 54. Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁶⁴ Acts 1817-18 (general), ch. 13, sec. 18. Acts 1941; Burns, 1941 suppl., 3-2905; Baldwin, 1941 suppl., 8405-5. 2 Rev. Stat. 1852; Burns 7-413, 49-2707; Baldwin 3387, 1434. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. *Midland Ry. Co. v. State ex rel. Harrison*, 11 Ind. App. 433. 38 N. E. 57 (1894). *Fidelity Bldg. & Sav. Union v. Byrd*, 154 Ind. 47, 55 N. E. 867 (1899).

¹⁶⁵ Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1405; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226. *Sun Publishing Co. v. Bonifas*, 106 Ind. App. 607, 19 N. E. (2d) 879 (1929).

Fees on change of venue, and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Op. Atty. Gen.* 1934, p. 123.

¹⁶⁶ Acts 1803, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 455. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

¹⁶⁷ Acts 1899; Burns 26 516; Baldwin 5380.

¹⁶⁸ Acts 1885, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1909; Burns 60-214; Baldwin 13865.

in the order book, and issues a venire to require such persons to appear in court.¹⁶⁹

The clerk files naturalization declarations and certificates under the Federal laws; keeps a record of naturalization proceedings; and makes reports thereof to the United States Immigration and Naturalization Service.¹⁷⁰

Formerly the clerk issued certificates showing discharge of apprentices by the court;¹⁷¹ recorded prison bounds;¹⁷² and made reports to the board of commissioners concerning fines imposed by the circuit court and collections thereof.¹⁷³

The State Board of Accounts has prescribed forms for the following records: Entry and issue docket and fee book; estate entry claim and allowance docket and fee book; guardianship docket and fee book; support docket; index and record of receiverships; and judgment docket.¹⁷⁴

CIVIL CAUSES

FILING OF ACTIONS

116. ENTRY AND ISSUE DOCKET AND FEE BOOK, 1914-. 25 vols. (1-25).

Record of filing of actions, issues, and fees and costs assessed, in civil and criminal causes, showing dates of filing, proceedings, sheriff's return, judgment, and collection of fees and costs; nature and number of cause; proceedings; amount and nature of fees and costs; names of plaintiff, defendant, attorneys, and witnesses; and disposition of cause. This is a combination of three records formerly kept separately:

¹⁶⁹ Rev. L. 1831, ch. 53, secs. 1, 2. Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Acts 1881 (Spec. Sess.), 1895, 1913; Burns 4-3305, 4-3306; Baldwin 1272, 1270.

Failure to empty the jury box at beginning of year held not ground for reversal of manslaughter conviction. *Crickmore v. State*, 213 Ind. 586, 12 N. E. (2d) 266 (1938).

Objection to irregularities in the selection, impaneling, or swearing of grand jury should be raised by plea in abatement. *Johnson v. State*, 213 Ind. 659, 14 N. E. (2d) 96 (1938).

¹⁷⁰ U. S. C., title 8, secs. 357, 400 (laws of 1906, 1911, 1913). U. S. Executive Order (June 10, 1933) 6166, sec. 14. Acts 1933, 1937; Burns, 1941 suppl., 49-1007; Baldwin, 1937 suppl., 7537.

¹⁷¹ Rev. L. 1831, ch. 4, sec. 2.

¹⁷² Rev. L. 1831, ch. 75, sec. 1.

¹⁷³ Rev. L. 1831, ch. 54, sec. 14; ch. 90, sec. 4. Rev. Stat. 1843, ch. 13, secs. 80-83. 1 Rev. Stat. 1852, ch. 92.

¹⁷⁴ Acts 1909; Burns 60-202; Baldwin 13833. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

Entry docket, entry 117; issue docket, entry 118; and fee book, entry 148. Arr. numer. by cause no. Indexed alph. by name of plaintiff in civil causes, and defendant in criminal causes. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

117. ENTRY DOCKET, 1854-1913. 31 vols. (1, 2; 29 vols. dated). Title varies: Issue Docket, 1874, 2 vols.; Entry and Issue Docket, 1883-88, 3 vols. 1914- in Entry and Issue Docket and Fee Book, entry 116.

Record of filing of actions of civil and criminal causes, showing dates of filing, issuing process, and judgment; nature and number of cause; names of plaintiff, defendant, and attorneys; and amount of fees. Also contains: Issue docket, 1892-1913, entry 118. Arr. chron. by date of filing. Indexed alph. by name of plaintiff in civil causes, and defendant in criminal causes. Hdw. 300 pp. 18 x 13 x 3. Bookroom 1.

118. ISSUE DOCKET, 1856-1891. 10 vols. (1 vol. unlabeled; A-F, 1-3). 1892-1913 in Entry Docket, entry 117; 1914- in Entry and Issue Docket and Fee Book, entry 116.

Record of civil and criminal causes set for trial, showing dates of filing, court term, and sheriff's return; names of plaintiff, defendant, and attorneys; and court proceedings. Arr. chron. by date of court term. Indexed alph. by name of plaintiff in civil causes, and defendant in criminal causes. Hdw. 300 pp. 18 x 13 x 3. Bookroom 1.

CASE FILES

119. [COURT DOCUMENTS PENDING], 1928-. 24 f. b. (A-W, XYZ).

Contains:

- i. Civil causes, showing information as in entry 120i. Arr. alph. by name of plaintiff.
- ii. Criminal causes, 1933-, showing information as in entry 120ii. Arr. alph. by name of defendant.
- iii. Estates causes, showing information as in entry 120iii. Arr. alph. by name of estate.
- iv. Guardianship causes, showing information as in entry 120iv. Arr. alph. by name of guardianship.

No index. Typed. 10 x 5 x 15. Clk. off.

120. [COURT DOCUMENTS DISPOSED], 1837-. 1,223 f. b. (Case 1, 88 f. b., numbered irregularly; case 2, 1-240; case 3, 1-215; case 4, 1-476; case 5, 1-204).

Contains all papers of:

- i. Civil causes, consisting of complaints, demurrers,

writs, orders, summonses, subpoenas, cross complaints, and reports, showing cause number; dates of filing and action; names of plaintiff, defendant, and attorneys; nature of cause; court proceedings; and final disposition. For index, see entry 121.

- ii. Criminal causes, consisting of affidavits, complaints, writs, subpoenas, orders, denials, bonds, indictments, and committals, showing dates of instrument and action; cause number; names of defendant, attorneys, and witnesses; nature of charge; court proceedings; and final disposition. For index, see entry 121.
- iii. Estate causes, consisting of letters of administration, bonds, inventories, appraisements, sale bills, claims, reports, and receipts for payment of claims, showing cause number; dates of filing and action; names of estate, administrator or executor, sureties, appraisers, claimants, attorneys, and beneficiaries; amounts of estate, sale, claim, bond, and bequests; location and description of property; final settlement; and volume and page reference to probate order book, entry 170. For index, see entry 122.
- iv. Guardianship causes, consisting of petitions, letters of guardianship, bonds, inventories and appraisements, claims, reports, and court orders, showing cause number; dates of filing and action; names of ward, guardian, sureties, and claimant; amounts of bond and claim; location and description of property; and final settlement. For index, see entry 123.

Also contains: Notary bonds, 1853-, entry 39; marriage certificates, 1837-1933, entry 45; physicians' certificates, 1897-, entry 48; dentists' certificates, 1899-, entry 50; nurses' certificates, 1905-, entry 52; optometrists' certificates, 1907-, entry 54; junk dealers' applications, 1905-, entry 57; and poultry dealers' applications, 1917-, entry 59. Arr. chron. by date of filing. Hdw. 1837-Apr. 1909; typed May 1909-. 10 x 5 x 15. 564 f. b., 1837-1908, clk. vt.; 659 f. b., 1909-, clk. off.

121. GENERAL INDEX [Civil and Criminal], 1837-. 5 vols. Index to civil and criminal causes in court documents disposed, entry 120, showing date of filing, names of plaintiff

and defendant, cause number, volume and page reference to order book, entry 134, and file box reference. Arr. alph. by names of plaintiff and defendant. Hdw. 600 pp. 18 x 13 x 3. 3 vols., 1837-Apr. 4, 1909, clk. vt.; 2 vols., Apr. 7, 1909-, clk. off.

122. GENERAL INDEX DECEDENT'S ESTATES, 1837-. 3 vols. (A, B; 1 vol. unlabeled).

Index to estate causes in court documents disposed, entry 120, showing date and kind of letter, names of decedent and administrator or executor, cause number, and file box reference. Arr. alph. by name of decedent. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

123. GENERAL INDEX GUARDIANSHIPS, 1837-. 2 vols. (1; 1 vol. unlabeled).

Index to guardianship causes in court documents disposed, entry 120, showing dates of letters and bond; names of guardian, wards, and sureties; cause number; amount of bond; and file box reference. Arr. alph. by name of ward. Hdw. 500 pp. 18 x 13 x 3. Clk. off.

CORONERS' INQUESTS

124. CORONER'S INQUEST, 1916-. 16 f. b.

Coroner's reports filed in office of clerk of the circuit court, on inquests held to establish cause of sudden, accidental, and violent deaths, showing information as in entry 125i. Arr. chron. by date of inquest. No index 1916-Feb. 15, 1924; for index Feb. 16, 1924-, see entry 125ii. Hdw. and typed. 10 x 5 x 15. Clk. off.

125. CORONER'S INQUEST, 1857-. 2 vols. (1 vol. unlabeled; 3).

Contains:

- i. Record of coroner's inquests to establish cause of sudden, accidental, and violent deaths, 1857-Feb. 15, 1924, showing dates of death, inquest, and verdict; name, age, sex, color, height, and weight of deceased; names and testimony of witnesses; cause of death; and coroner's verdict. Arr. chron. by date of inquest. Indexed alph. by name of deceased.
- ii. Index to coroner's inquest, Feb. 16, 1924-, entry 124, showing date of inquest and name of deceased. Arr. chron. by date of inquest.

Hdw. 400 pp. 14 x 10 x 2. Clk. off.

INSANITY

126. INSANITY RECORD, May 27, 1852-June 1929. 5 vols. (2 vols. unlabeled; 1-3). July 1929- in Order Book, entry 134.

Contains record of:

- i. Proceedings for commitment, showing dates of application, filing, proceedings, commitment, and discharge or death; name, age, sex, address, and personal history of patient; names of petitioner, examining physicians, witnesses, and institution; and cause number.
- ii. Proceedings to recommit, showing dates of physician's statement, filing, previous commitment, discharge, and recommitment; name and address of patient; names of physician and institution; and cause number.

Arr. chron. by date of filing. Indexed alph. by name of patient. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

NATURALIZATION

127. DECLARATION OF INTENTION, 1854-, 4 vols.

Record of declaration of intention by alien residents to become citizens of United States, showing date of declaration; name, address, sex, occupation, race, nationality, date and place of birth, and physical description of alien; marital status; dates and places of birth, and addresses of children; names of native country, port of departure, sailing vessel, and port of entry; last foreign address; dates of emigration and arrival; and certificate of arrival number. Arr. chron. by date of declaration. Indexed alph. by name of alien. Hdw. 300 pp. 14 x 9 x 2. 3 vols., 1854-Sept. 5, 1933, clk. vt.; 1 vol., Oct. 1, 1933-, clk. off.

128. PETITIONS, 1854-. 4 vols.

Record of petitions of aliens for naturalization, oaths of allegiance, and affidavits of witnesses, showing date and number of petition; cause number; name, address, sex, occupation, marital status, and race of petitioner; name, date and place of birth of petitioner's wife or husband; date and place of marriage; names, dates and places of birth, and addresses of children; names of native country, ports of emigration and entry, and sailing vessel; last foreign address; dates of emigration and entry; length of time resided in United States; oath of naturalization; names, addresses, and affidavits of witnesses; certificate of arrival

number; and court order. Also contains: Petitions granted, 1904-28, entry 129. Arr. chron. by date of petition. Indexed alph. by name of petitioner. Hdw. 125 pp. 19 x 14 x 1. 3 vols., 1854-1928, clk. vt.; 1 vol., 1929-, clk. off.

129. PETITIONS GRANTED, 1854-1903, 1929-. 2 vols. Title varies: Record of Final Oaths, 1854-1903, 1 vol. 1904-28 in Petitions, entry 128.

Record of court orders granting citizenship to aliens, showing date of order; name, address, nationality, and date and place of birth of alien; and oath of naturalization. Arr. chron. by date of court order. Indexed alph. by name of alien. Hdw. 125 pp. 14 x 12 x 1. 1 vol., 1854-1903, clk. vt.; 1 vol., 1929-, clk. off.

RECEIVERSHIPS

130. ASSIGNMENT RECORD, 1869-May 17, 1900. 2 vols. (A-B). May 20, 1900- in Order Book, Probate, entry 170.

Record of receivership and assignment causes, showing dates of filing and proceedings; names of receivership, receiver, assignors, assignees, sureties, and claimants; inventory and appraised valuation of property; amounts of assets, liabilities, costs and fees; and amount of receiver's bond. Arr. chron. by date of filing. No index. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

MINUTES

131. CIVIL AND CRIMINAL DOCKET, Aug. 31, 1931-. 1 vol. Record of proceedings and actions in pending civil and criminal causes, showing information as in entry 133. Arr. numer. by cause no. No index. Hdw. 250 pp. 12 x 12 x 2½. Clk. off.

132. TRANSFER CIVIL DOCKET, 1836-. 151 vols. Title varies: Court Docket, 1836-53, 1 vol.; Bench Dockets, 1854-1914, 143 vols.

Record of proceedings and actions in civil causes, showing nature and number of causes; dates of filing and action; and names of plaintiff, defendant, and attorneys. Also contains: Transfer criminal docket, 1836-1924, entry 151. Arr. chron. by date of court term, 1836-1914; arr. numer. by cause no., 1915-. No index. Hdw. 300 pp. 16 x 10 x 3. 144 vols., 1836-1914, bookroom 1; 7 vols., 1915-, clk. off.

133. JUDGES DOCKET, 1846-Apr. 1874. 2 vols. Title varies: Court Docket, 1846-53, 1 vol.

Docket of civil and criminal causes, showing term of court; cause number, names of plaintiff, defendant, and attorneys; nature of action; and proceedings of court. Arr. numer. by cause no. No index. Hdw. 250 pp. 18 x 13 x 2. Bookroom 1.

ORDERS

134. ORDER BOOK, 1836-. 85 vols. (A-Z, 1-59).

Record of verdicts returned and judgments and orders of court in civil and criminal causes, showing dates of filing, action, and court term; cause number; names of plaintiff, defendant, and attorneys; nature of verdict or judgment; and court order. Also contains: Insanity record, July 1929-, entry 126; partition record, June 15, 1919-, entry 136; and venue record, 1912-, entry 182. Arr. chron. by date of court term. Indexed alph. by names of plaintiff and defendant. Hdw. 1836-Feb. 10, 1921; typed Feb. 11, 1921-. 600 pp. 18 x 13 x 3. Clk. vt.

135. VACATION ORDER BOOK, 1875-. 10 vols. (1-10).

Transcripts of documents filed during vacation of court in civil, criminal, and probate causes, showing date of filing; nature of document; cause number; and names of plaintiff, defendant, and attorneys. Arr. chron. by date of filing. Indexed alph. by names of plaintiff and defendant. Hdw. 1875-June 1927; typed July 1927-. 600 pp. 18 x 13 x 3. 9 vols., 1875-June 1927, clk. vt.; 1 vol., July 1927-, clk. off.

136. PARTITION RECORD, May 23, 1855-May 31, 1919. 9 vols.

(1-9). June 15, 1919- in Order Book, entry 134.

Record of verdicts returned and judgments and orders of court, in partition causes, showing dates of filing and court order; cause number; names of plaintiff, defendant, and attorneys; location and description of real property; order of court; proceedings; and amounts of fees and costs. Arr. chron. by date of court orders. Indexed alph. by name of plaintiff. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

JUDGMENTS

137. JUDGMENT DOCKET, 1836-. 20 vols. (A-T).

Record of judgments rendered in civil and criminal causes, showing dates of payment and satisfaction; names of plaintiff, defendant, judgment debtor, and attorneys; nature and number of cause; amounts of judgment, costs, and fees; and volume and page reference to execution docket, entry 139. Arr. chron. by date of judgment. Indexed alph. by names of plaintiff and defendant; also separate index 1854-, entry 138. Hdw. 500 pp. 18 x 13 x 3. 16 vols., 1836-1929, clk. vt.; 4 vols., 1930-, clk. off.

138. JUDGMENT INDEX, 1854-. 8 vols. (numbered irregularly).

Index to judgment docket, entry 137, showing dates of judgment and satisfaction, amount of judgment, names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by name of plaintiff. Hdw. 500 pp. 18 x 13 x 3. 4 vols., 1854-1929, clk. vt.; 4 vols., 1930-, clk. off.

EXECUTIONS

139. EXECUTION DOCKET, 1837-. 14 vols. (A-N).

Record of writs issued for execution of judgments, showing cause number; names of plaintiff, defendant, judgment debtors, and attorneys; dates of judgment, writ, and sheriff's return; location and description of property; amounts of judgment, interest, and costs; and volume and page references to entry and issue docket and fee book, entry 116; order book, entry 134; and judgment docket, entry 137. Arr. chron. by dates of writs. Indexed alph. by names of plaintiff and defendant, Nov. 24, 1854-; for index 1837-Nov. 23, 1854 and separate index Nov. 24, 1854-Nov. 21, 1881, see entry 140. Hdw. 1837-Apr. 1937; typed May 1937-. 600 pp. 18 x 13 x 3. 13 vols., 1837-Apr. 1937, clk. vt.; 1 vol., May 1937-, clk. off.

140. GENERAL INDEX EXECUTION, 1837-Nov. 21, 1881. 1 vol. Index to execution docket, entry 139, showing cause number, date of execution, names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by names of plaintiff and defendant. Hdw. 500 pp. 18 x 13 x 2½. Bookroom 1.

141. PRAECIPE FOR EXECUTIONS, Mar. 29, 1876-. 5 vols. (D-H).

Record of orders issued by attorneys or plaintiffs to clerk to issue writs of execution of court decrees or to transcribe proceedings in circuit court causes venued to adjoining counties, showing dates of order, judgment, and court term; nature and number of cause; names of plaintiff, defendant, attorneys, and adjoining county; and volume and page reference to order book, entry 134; judgment docket, entry 137; execution docket, entry 139; and civil fee book, entry 148. Arr. chron. by date of order. No index. Hdw. 350 pp. 16 x 12 x 3. 4 vols., 1876-1929, bookroom 1; 1 vol., 1930-, clk. off.

142. LIS PENDENS, COMPLAINTS, 1878-. 1 vol.

Record of notices of complaints filed against owners of real estate that may be subject to levy for satisfaction of judgment, showing dates of notice and filing; nature and number

of cause; names of plaintiff, defendant, plaintiff's attorney, and court; and location and description of property. Arr. chron. by date of filing. Indexed alph. by name of plaintiff. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

143. LIS PENDENS, NOTICES, 1850-. 1 vol.

Record of notices of levies and attachment on real estate, showing dates of notice, recording, and satisfaction; cause number; names of plaintiff and defendant; amount of judgment; and location and description of property. Arr. chron. by date of notice. Indexed alph. by name of plaintiff. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

144. LIS PENDENS, CERTIFICATE OF SALE, 1881-. 2 vols. (3, 5).

Record of certificates of sale issued to purchasers of property sold to satisfy judgments, showing dates and amounts of judgment and sale; cause number; names of plaintiff, defendant, and purchaser; location and description of property; and date of recording. Arr. chron. by date of recording. Indexed alph. by name of plaintiff. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

145. LIS PENDENS, REDEMPTION, 1881-. 1 vol.

Record of certificates of redemption of real property sold to satisfy judgments, showing cause number; dates of certificate and recording; names of plaintiff, defendant, and redemptioner; amounts of judgment, interest, and redemption; location and description of property; and volume and page reference to execution docket, entry 139. Arr. chron. by date of recording. No index. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

COMPLETE TRANSCRIPTS

146. COMPLETE RECORD CIVIL. 1836-Aug. 1901. 9 vols.

(A-E, M, G-I). Discontinued.

Transcripts of all actions and proceedings in civil causes involving real estate, showing dates of filing, action, and recording; number and nature of cause; names of plaintiff, defendant, and attorneys; and disposition of cause. Arr. chron. by date of recording. No index, 1836-49; indexed alph. by name of plaintiff, 1850-Aug. 1901. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

FEE AND CASH RECORDS

147. SUPPORT DOCKET, 1913-. 2 vols. (1, 2).

Record of receipts and disbursements for support and alimony, showing title and number of cause, date and amounts of receipts and disbursements, and names of payer and payee.

Arr. alph. by name of payee. No index. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

148. FEE BOOK [Civil], 1836-1913. 24 vols. (A-W, 1 vol. unlabeled). 1914- in Entry and Issue Docket and Fee Book, entry 116.

Record of fees and costs assessed in civil causes, showing nature and number of cause; names of plaintiff, defendant, attorneys, payer and payee; nature and amount of fees and costs; and dates and amounts of payments. Also contains: Criminal fee book, 1836-89, entry 152. Arr. chron. by date of payment. Indexed alph. by names of plaintiff and defendant. Hdw. 325 pp. 18 x 13 x 3. Bookroom 1.

CRIMINAL CAUSES

(See also entries, 116, 117, 118, 119ii, 120ii, 131, 133, 134, 135, 137).

INDICTMENTS AND AFFIDAVITS

149. INDICTMENT RECORD, Feb. 1864-. 7 vols. (numbered irregularly).

Record of affidavits and grand jury indictments, showing dates of affidavit or indictment and filing; date and nature of charge; cause number; amount of recognizance bond; and names of plaintiff, defendant, and witnesses. Arr. chron. by date of affidavit or indictment. Indexed alph. by name of defendant. Hdw. 600 pp. 18 x 13 x 3. 6 vols., Feb. 1864-1920, bookroom 1; 1 vol., 1921-. clk. vt.

BONDS

150. RECOGNIZANCE BOND RECORD, Mar. 1882-. 4 vols. (1-4). 1853-81 in Record of Official Bonds, entry 37.

Record of bonds posted to assure appearance of defendants in court, showing dates of bond and appearance; names of court, defendant, and sureties; amount and conditions of bond; and nature of charge. Arr. chron. by date of bond. Indexed alph. by name of defendant. Hdw. 3 vols., 1882-1927, bookroom 1; 1 vol., 1928-, clk. vt.

MINUTES

151. TRANSFER CRIMINAL DOCKET, 1925-. 2 vols. (1, 2). 1836-1924 in Transfer Civil Docket, entry 132.

Record of actions and proceedings in criminal causes, showing dates of filing and action, nature and number of cause, and names of defendant and attorneys. Arr. numer. by cause no. No index. Hdw. 350 pp. 9 x 12 x 4½. Clk. off.

FEE AND CASH RECORDS

152. CRIMINAL FEE BOOK, 1890-. 5 vols. (1-5). 1836-89 in Fee Book [Civil], entry 148.

Record of fees and costs assessed in criminal causes, showing cause number, date, and nature of indictment or affidavit; names of defendant and witnesses; itemized list of fees and costs; and date of payment. Also contains: Record of fees, fines and forfeitures, 1919-, entry 153. Arr. numer. by cause no. Indexed alph. by name of defendant. Hdw. 600 pp. 18 x 13 x 3. 2 vols., 1890-May 1924, bookroom 1; 3 vols., June 1924-, clk. off.

153. RECORD OF FEES, FINES AND FORFEITURES, 1910-18. 1 vol. 1919-in Criminal Fee Book, entry 152.

Record of fees, fines, and forfeitures collected, showing cause number; date, nature, and amount of collection; name of payer; and date of payment to treasurer. Arr. chron. by date of collection. No index. Hdw. 300 pp. 18 x 12 x 2. Bookroom 1.

PROBATE CAUSES

(See also entries, 119iii, iv, 120iii, iv, 135).

FILING OF ACTIONS

154. ESTATES, ENTRY, CLAIM, AND ALLOWANCE DOCKET AND FEE BOOK, 1915-. 8 vols. (9-16).

Record of filing of actions, claims, allowances, and fees assessed in estate causes, showing dates of decedent's death, filing, letters of administration, proof of publication, claims, allowances, and disposition of cause; names of decedent, administrator or executor, sureties, and claimants; amounts of administrator's or executor's bond, inventory, appraisement, inheritance tax, claims, and allowances; cause and claim numbers; and volume and page reference to wills record, entry 159; inventory record, entry 164; and sales bill record, entry 166. This is a combination of two records formerly kept separately: General entry, claim and allowance docket, entry 155; estate fee book, entry 175. Arr. chron. by date of filing. Indexed alph. by name of decedent. Hdw. 250 pp. 18 x 13 x 2. Clk. off.

155. GENERAL ENTRY, CLAIM AND ALLOWANCE DOCKET, 1836-1914. 8 vols. (A, 1, 2, 1-5). Title varies: Appearance Docket of Estates, 1836-58, 1878-83, 2 vols.; Appearance and Judgment Docket of Estates, 1859-77, 1 vol. 1915- in Estates, Entry, Claim, and Allowance Docket and Fee Book, entry 154.

Record of filing of actions, claims, and allowances in estate causes, showing dates of filing, decedent's death, letters of administration, inventory, appraisement, proof of publication, claim, and allowance; administrator's or executor's report, and settlement; names of decedent, claimant, administrator or executor, and sureties; amounts of administrator's or executor's bond, inventory, appraisement, claims, and allowances; cause number; and volume and page reference to probate order book, entry 170. Arr. numer. by cause no. Indexed alph. by name of decedent. Hdw. 500 pp. 18 x 13 x 3½. Clk. vt.

156. GUARDIANSHIP DOCKET AND FEE BOOK, 1915-. 3 vols. Record of filing of actions and fees assessed in guardianship causes, showing cause number; dates of filing and letters of guardianship; names and ages of wards; names of guardian, sureties, and appraiser; amounts of guardian's bond, inventory, and appraisement; nature and amount of fees; and volume and page reference to probate order book, entry 170. This is a combination of two records formerly kept separately: Guardianship docket, entry 157; fee book, guardianship, entry 176. Arr. numer. by cause no. Indexed alph. by names of ward and guardian. Hdw. 300 pp. 18 x 12 x 3. 2 vols., 1915-May 1938, clk. vt.; 1 vol., June 1938-, clk. off.

157. GUARDIANSHIP DOCKET, 1836-1914. 6 vols. (A-C, 5-7). 1915- in Guardianship Docket and Fee Book, entry 156.

Record of filing of actions in guardianship causes, showing dates of filing and appointment of guardian, cause number, name and date of birth of ward, names and addresses of guardian and sureties, amount of guardian bond, and volume and page reference to probate order book, entry 170. Arr. numer. by cause no. Indexed alph. by names of ward and guardian. Hdw. 500 pp. 18 x 13 x 3. 4 vols., 1836-71, 1893-1905, bookroom 1; 2 vols., 1872-92, 1906-14, clk. off.

WILLS

158. WILLS, Dec. 14, 1918-. 2 f. b.

Original wills filed for probate, showing dates of will and filing; cause number; names of testator, executor, heirs, and witnesses; conditions, bequests, and codicils of will; and volume and page reference to wills record, entry 159. Arr. alph. by name of testator. No index. Typed. 10 x 5 x 15. Clk. vt.

159. WILLS RECORD, 1834-. 8 vols. (A-H).

Transcripts of wills filed for probate, showing dates of instrument and filing; cause number; names of testator, executor, heirs, and witnesses, conditions of will; description and amount of bequests; attest of witnesses; and affidavit of testator's death. Arr. chron. by date of filing. Indexed alph. by name of testator. Hdw. 1834-Jan. 16, 1913; typed Feb. 3, 1913-. 600 pp. 18 x 13 x 3. Clk. vt.

BONDS

160. ADMINISTRATOR'S BOND RECORD, 1848-. 10 vols. (A, B, 1-8).

Record of administrators' bonds, oaths, and letters, showing dates of bond, oath, and letters; names of estate, administrator, and sureties; and amount and conditions of bond. Also contains: Record of executor's bonds, oaths and letters, Apr. 1912-, entry 161. Arr. chron. by date of bond. Indexed alph. by name of administrator. Hdw. 600 pp. 18 x 13 x 3. 5 vols., 1848-Apr. 5, 1910, bookroom 1; 4 vols., Apr. 10, 1910-June 17, 1938, clk. vt.; 1 vol., June 20, 1938-, clk. off.

161. RECORD OF EXECUTOR'S BONDS, OATHS AND LETTERS, 1849-Mar. 1912. 1 vol. Apr. 1912- in Administrator's Bond Record, entry 160.

Record of executor's bonds, oaths, and letters, showing dates of appointment, bond, oath, and letters; names of estate, executor, and sureties; and amount and conditions of bond. Arr. chron. by date of bond. Indexed alph. by name of estate. Hdw. 600 pp. 18 x 13 x 3. Bookroom 1.

162. GUARDIAN BOND RECORD, 1847-. 5 vols. (A, B, 3-5).

Title varies: Record of Guardian's Bond, Oath and Letters of Guardianship, 1847-1906, 3 vols.

Record of guardians' bonds, oaths, and letters, showing dates of appointment, bond, oath, and letters; names of ward, guardian, and sureties; and amount and conditions of bond. Arr. chron. by date of bond. Indexed alph. by name of ward. Hdw. 600 pp. 18 x 13 x 3. 3 vols., 1847-June 1906, bookroom 1; 1 vol., Oct. 1906-May 26, 1932, clk. vt.; 1 vol., May 27, 1932-, clk. off.

163. ADMINISTRATOR'S, EXECUTOR'S AND GUARDAIN'S BONDS FOR THE SALE OF REAL ESTATE. 1855-Nov. 12, 1873. 1 vol. 1836-54, Nov. 20, 1873- in Order Book, Probate, entry 170.

Record of administrators', executors', and guardians' bonds to sell real estate, showing date, amount, and conditions

of bond; cause number; names of estate and administrator or executor, or guardianship and guardian; and location and description of property. Arr. chron. by date of bond. Indexed alph. by names of estate or guardianship. Hdw. 500 pp. 18 x 12 x 2. Bookroom 1.

INVENTORIES AND SALE BILLS

164. INVENTORY RECORD, 1852-. 13 vols. (A-M). 1836-51 in Order Book, Probate, entry 170.

Record of inventories of personal property in estate causes, showing dates of appraiser's report and recording; names of estate, administrator, executor, and appraiser; itemized list and appraised valuation of property; and amounts of property retained by widow and heirs. Arr. chron. by date of recording. Indexed alph. by name of estate. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

165. GUARDIAN'S INVENTORY, 1858-. 3 vols. (A, B; 1 vol. unlabeled). 1836-57 in Order Book, Probate, entry 170.

Record of guardian's inventory and appraisement of personal property in settlement of guardianships, showing names of guardian, ward, appraiser, and guardianship; date of appraisement; and itemized list and appraised value of property. Arr. chron. by date of appraisement. Indexed alph. by name of guardianship. Hdw. 600 pp. 18 x 13 x 3. 2 vols., 1853-June 6, 1928, bookroom 1; 1 vol., Oct. 16, 1928-, clk. off.

166. SALE BILL RECORD, Mar. 4, 1853-Oct. 11, 1929. 5 vols. (A-E). Oct. 21, 1929- in Order Book, Probate, entry 170.

Record of sale of personal property in estate and guardianship causes, showing nature and number of cause; date, amount, and terms of sale; names of estate and administrator or executor or guardianship and guardian, sureties, and purchaser; inventory number; and description of items sold. Arr. chron. by date of sale. Indexed alph. by name of estate or guardianship. Hdw. 400 pp. 18 x 13 x 3. Bookroom 1.

MINUTES

167. PROBATE DOCKET, Sept. 27, 1927-. 1 vol.

Record of proceedings and actions in estate and guardianship causes pending, showing nature and number of cause; dates of filing and proceedings; names of estate and administrator or executor or guardianship and guardian, ward, sureties, and attorneys; date and amount of bond; and action taken. Arr. numer. by cause no. No index. Hdw. 200 pp. 12 x 12 x 2. Clk. off.

168. TRANSFER ESTATES, 1859-. 9 vols. (1-6, 1, 1, 2).
Title varies: Judge's Docket, Estates, 1859-1915,
6 vols.

Record of proceedings and actions in disposed of estate causes, showing dates of filing and action; nature, number, and disposition of cause; names of estate, administrator or executor, and sureties; and date and amount of bond. Arr. chron. by date of filing, 1859-Mar. 16, 1915; numer. by cause no. Mar. 18, 1915-. Indexed alph. by name of estate. Hdw. 600 pp. 18 x 13 x 3. 5 vols., 1859-Jan. 7, 1885, May 27, 1889-Mar. 16, 1915, bookroom 1; 1 vol., Jan. 9, 1885-May 26, 1889, clk. vt.; 3 vols., Mar. 18, 1915-, clk. off.

169. TRANSFER GUARDIANSHIPS, 1850-91, 1915-. 6 vols. (1-4, 1; 1 vol. unlabeled). Title varies: Judge's Docket Guardianships, 1850-91, 4 vols.

Record of proceedings and actions in disposed of guardianship causes, showing dates of filing, action, and appointment of guardian; nature, number, and disposition of cause; names of guardianship, guardian, sureties, and attorneys; and amount of bond. Arr. numer. by cause no. Indexed alph. by name of guardian, 1850-91, no index, 1915-. Hdw. 500 pp. 12 x 12 x 5. 4 vols., 1850-91, bookroom 1; 2 vols., 1915-, clk. off.

ORDERS

170. ORDER BOOK, PROBATE, 1836-. 44 vols. (A, 2, A2, A-H, 2-5, 8-36).

Record of court orders in probate causes, showing number and nature of cause; dates of filing, court term, and action; names of estate or guardianship, administrator or executor or guardian, heirs or wards, sureties, attorneys, and witnesses; and disposition of cause. Also contains: Assignment record, May 20, 1900-, entry 130; administrator's, executor's and guardian's bonds for the sale of real estate, 1836-54, Nov. 20, 1873-, entry 163; inventory record, 1836-51, entry 164; guardian's inventory, 1836-57, entry 165; sale bill record, Oct. 21, 1929-, entry 166; and report of administrator, guardian and executor, 1836-70, entry 173. Arr. chron. by date of filing. No index, 1836-51; indexed alph. by names of estate and administrator or executor, or guardianship and guardian, 1852-. Hdw., 1836-Feb. 11, 1931; typed, Feb. 12, 1921-. 600 pp. 18 x 13 x 3. Clk. vt.

171. INHERITANCE AND TRANSFER TAX RECORD. Apr. 29, 1914-. 4 vols. (1; 3 vols. unlabeled).

Record of orders determining value of estates and amount of

tax, showing cause number; dates of decedent's death, appraisement, inventory, order, and filing; names of estate, administrator or executor, appraiser, and heirs; location, description, and valuation of property; amount of deduction for indebtedness; and rate and amount of tax. Arr. chron. by date of filing. Indexed alph. by name of estate. Hdw. 250 pp. 23 x 18 x 2. 1 vol., Apr. 29, 1914-May 1919, bookroom 1; 1 vol., Aug. 1919-May 10, 1929, clk. vt.; 2 vols., Aug. 1929-, clk. off.

COMPLETE TRANSCRIPTS

172. COMPLETE RECORD PROBATE, 1836- 1922. 42 vols. (A-Z, 1-16). Discontinued.

Complete transcript of actions and proceedings in probate causes involving real estate, showing cause number; dates of filing and action; names of estate and administrator or guardianships and guardian; nature of action and settlement; amounts of bequests, inventory, and appraisement of property; location and description of property; and date and amount of bond. Arr. chron. by date of action. Indexed alph. by name of estate or guardianship. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

173. REPORT OF ADMINISTRATOR, GUARDIAN AND EXECUTOR, 1871-. 24 vols. (1-24). 1836-70 in Order Book, Probate, entry 170.

Transcripts of administrator's, executor's, and guardian's final reports, showing date of report; names of estate and administrator or guardianship and guardian; and itemized amounts of receipts, disbursements, and balance. Arr. chron. by date of report. Indexed alph. by names of estate or guardianship. Hdw. 1871-1912; typed 1913-. 600 pp. 18 x 13 x 3. 21 vols., 1871-1935, clk. vt.; 3 vols. 1936-, clk. off.

FEE AND CASH RECORDS

174. FEE BOOK ESTATES, GUARDIANSHIP, 1836-91. 4 vols. Title varies: Fee Book, Probate, 1836-55, 1 vol.; Fee Book, Estates, 1856-76, 2 vols.

Record of fees collected in estate and guardianship causes, showing cause number; date, nature, and amount of collection; and names of estate and administrator or executor or guardianship and guardian. This is a combination of two records later kept separately: Estates fee book 1836-84, entry 175; guardianships fee book, entry 176. Arr. chron. by date of collection. Indexed alph. by name of estate or guardian. Hdw. 300 pp. 18 x 12 x 3. Bookroom 1.

175. FEE BOOK, [Estates], 1885-1914. 7 vols. (2-8). 1836-84 in Fee Book, Estates, Guardianship, entry 174; 1915-in Estates, Entry, Claim and Allowance Docket, and Fee Book, entry 154.

Record of fees collected in estate causes, showing cause number; date, nature, and amount of collection; and names of estate, administrator or executor, and payer. Arr. numer. by cause no. Indexed alph. by name of estate. Hdw, 600 pp. 18 x 13 x 3. Bookroom 1.

176. FEE BOOK GUARDIANSHIPS, 1892-1914. 4 vols. 1836-91 in Fee Book, Estates, Guardianship, entry 174; 1915-in Guardianship Docket and Fee Book, entry 156.

Record of fees collected in guardianship causes, showing cause number; date, nature, and amount of collection; and names of guardianship, guardian, and payer. Arr. chron. by date of collection. Indexed alph. by name of guardian. Hdw. 500 pp. 18 x 12 x 2½. 3 vols., 1892-1908, bookroom 1; 1 vol., 1909-14, clk.vt.

JUVENILE CAUSES

177. [JUVENILE COURT PAPERS], 1908-. 30 f. b.

Original documents filed in juvenile causes, consisting of affidavits, warrants, subpoenas, court orders, commitments, and probation officer's reports, showing dates of document and filing; cause number; nature of alleged offense; name, age, sex, color, address, and personal and family history of juvenile; names of parents or guardian, defendant, and witnesses; and disposition of cause. Arr. numer. by cause no. No index. Typed. 10 x 5 x 16. Clk. off.

178. JUVENILE DOCKET, 1908-. 1 vol.

Record of filing of actions in juvenile causes, showing dates of filing and trial, cause number, names of juvenile and defendant, and disposition of cause. Arr. numer. by cause no. No index. Hdw. 500 pp. 12 x 12 x 3. Clk. off.

179. ORDER BOOK, JUVENILE, 1908-. 3 vols. (1, 2; 1 vol. unlabeled).

Record of actions and proceedings in juvenile causes, showing cause number, nature of offense, date of action, name of juvenile, and disposition of cause. Arr. numer. by cause no. Indexed alph. by name of juvenile. Hdw. 1908-July 1930; typed Sept. 1930-. 600 pp. 18 x 13 x 3. 2 vols. 1908-July 1930, clk. vt.; 1 vol., Sept. 1930-, clk. off.

MISCELLANEOUS RECORDS

180. REGISTER OF JURORS, 1879-. 2 vols. (1, 2).

Register of jurors impaneled, showing dates of impaneling, discharging, and court term; name of juror; and amount of fees and mileage. Arr. chron. by date impaneled. No index. Hdw. 300 pp. 18 x 12 x 2. 1 vol., 1879-July 2, 1885, bookroom 1; 1 vol., Aug. 1885-, clk. vt.

181. [SHERIFF'S RETURN OF JURORS], 1933-. In Firearm Permits, entry 66.

Sheriff's returns to clerk of jurors reporting for duty, showing cause number, date of return, name and address of juror, and total mileage.

182. VENUE RECORD, Oct. 1895-1911. 1 vol. 1912- in Order Book, entry 134.

Record of actions, proceedings, and costs in venued causes, showing dates of filing and disposition; nature and number of cause; names of plaintiff, defendant, and county; itemized list of fees and costs; disposition of cause; and volume and page reference to order book, entry 134. Arr. chron. by date of filing. Indexed alph. by name of defendant. Hdw. 150 pp. 15 x 19 x 1½. Bookroom 1.

VI. COURT OF COMMON PLEAS (1853-73)

EVOLUTION AND STRUCTURAL ORGANIZATION

From 1853 until 1873 Marshall County had a court officially known as "The Court of Common Pleas of Marshall County," presided over by one judge. The judge was elected for a 4-year term by the voters of the judicial district and was commissioned by the Governor.¹ The district was composed of the counties of Marshall, St. Joseph, and Starke from 1853 until March 1, 1859, and the counties of Elkhart, La Porte, Marshall, and St. Joseph after March 1, 1859.² The law provided that any vacancy in the office of judge was to be filled through appointment by the Governor.³

¹ 1 Rev. Stat. 1852, ch. 19, sec. 1. 2 Rev. Stat. 1852, ch. 8, secs. 1, 3, p. 16. Jones v. Cavins, 4 Ind. 305 (1853). See footnote 15 herein.

² 2 Rev. Stat. 1852, ch. 8, sec. 3, p. 16. Acts 1859, ch. 51, sec. 1. Acts 1861, ch. 28, sec. 1.

³ 1 Rev. Stat. 1852, ch. 115, sec. 2. 2 Rev. Stat. 1852, ch. 8, sec. 2, p. 16.

FUNCTIONS AND RECORDS

The court of common pleas had exclusive original jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. The court also had original jurisdiction (concurrent with the circuit court) of dower proceedings; partition proceedings; ne exeat proceedings; habeas corpus proceedings; the appointment of commissioners to execute deeds on title bonds given by deceased obligors; naturalization proceedings under the Federal laws after March 5, 1859; juvenile matters after March 8, 1867; and, except as hereinafter stated otherwise, all equity suits (including divorce and injunction), all civil actions at law, and all criminal cases. The court had no jurisdiction of civil actions at law for damages resulting from slander, libel, or breach of contract to marry; civil cases in which title to real estate was in issue; civil cases on bonds of State and county officers; criminal offenses punishable by death; and offenses punishable only by fine not exceeding \$3. Before March 5, 1859 the court had no jurisdiction of civil cases to recover less than \$50 or more than \$1,000, except that a consent judgment could be rendered for more than \$1,000. The court had jurisdiction of felonies only in the following instances: (a) When the defendant was in custody on a felony charge before indictment by the grand jury; (b) when the person accused of a felony voluntarily submitted himself to the jurisdiction of the court while on bail and before an indictment was returned by a grand jury in any other court; (c) when the accused person obtained a change of venue from the circuit court to the court of common pleas; and (d) when, after March 5, 1859, the Supreme Court had reversed a conviction by the circuit court, the defendant was in custody, and the circuit court was not in session.⁴ No appellate

⁴ 2 Rev. Stat. 1852, ch. 4, sec. 5, p. 6; ch. 8, secs. 4, 5, 7, 9, 11, 12, 14, 17, 21, 23, 25, 41, pp. 17, 20-25; Acts 1853, ch. 5, secs. 1, 2, ch. 30, sec. 1. Acts 1857, ch. 21, sec. 1. Acts 1859, ch. 52. Acts 1865 (Spec. Sess.), ch. 58.

Naturalization proceedings. U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824).

Divorce. *Herron v. Herron*, 16 Ind. 129 (1861); *Ewing v. Ewing*, 24 Ind. 468 (1865).

Criminal cases. *Spencer v. State*, 5 Ind. 41 (1854); *Johnson v. State*, 14 Ind. 574 (1860); *McCarty v. State*, 16 Ind. 310 (1861).

jurisdiction was vested in the court of common pleas.⁵

The court of common pleas was a court of record. Its judgments had the same force and effect as those of the circuit court, and were enforced in the same manner.⁶ The court of common pleas could compel the attendance and testimony of witnesses; punish for contempt; and issue all writs and orders necessary and incidental to the exercise of the jurisdiction mentioned in the preceding paragraph.⁷ The judge could solemnize marriages; take acknowledgments of deeds; take and certify depositions in any case not pending in his own court; and act as accounting officer or master in chancery in any cause referred to him by the circuit court.⁸ He served as judge of the court of conciliation from 1853 until 1865.⁹

Any case in which the judge was disqualified could be transferred to the circuit court for disposition.¹⁰ Decisions of the court of common pleas were reviewable by the circuit court or Supreme Court.¹¹

The clerk of the circuit court and the county sheriff served as clerk and sheriff, respectively, of the court of common pleas, and performed for the court of common pleas duties similar to those which they now perform for the circuit court while that court is exercising jurisdiction which was vested in the court of common pleas.¹² The district attorney prosecuted criminal cases in the court of common pleas.¹³

The court held four regular terms a year before August 6, 1859; three regular terms a year from August 6, 1859 until November 1, 1869; and two regular terms a year thereafter. Adjourned terms could be held after March 3, 1855. The maximum duration of terms was as follows: 1853 until March 3, 1855, 1 week; March 3, 1855 until February 23, 1859, 2 weeks;

⁵ Board of County Comrs. v. Weasner, 10 Ind. 259 (1858); Board of County Comrs. v. Brown, 10 Ind. 545 (1858).

⁶ 2 Rev. Stat. 1852, ch. 8, sec. 24, p. 20.

⁷ *Ibid.*, sec. 28, p. 21.

⁸ *Ibid.*, sec. 35, p. 22.

⁹ See the essay entitled "Court of Conciliation (1853-65)."

¹⁰ 2 Rev. Stat. 1852, ch. 8, sec. 10, p. 18.

¹¹ *Ibid.*, secs. 13, 20, 22, pp. 18, 19; ch. 1, sec. 570, p. 158; ch. 10, secs. 189-193, p. 291; ch. 11, secs. 43-46, p. 319. Acts 1853, ch. 5, secs. 1, 2; ch. 34, sec. 2. Acts 1857, ch. 21, sec. 1.

¹² 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 25, p. 20.

¹³ See the essay entitled "District Attorney (1853-73)."

February 23, 1859 until August 16, 1869, 1 week; August 16, 1869 until 1873, 3 weeks.¹⁴

The court of common pleas was abolished on March 6, 1873, and its jurisdiction and business were transferred to the circuit court.¹⁵

All of the records of the court of common pleas are in bookroom 1 except as otherwise indicated in the entries.

183. ENTRY DOCKET, 1853-71. 1 vol.

Record of filing of actions in civil and criminal causes of common pleas court, showing information as in entry 117. Arr. numer. by cause no. No index. Hdw. 300 pp. 18 x 13 x 3.

184. ISSUE DOCKET, COURT COMMON PLEAS, 1853-73. 4 vols. (A-D).

Record of civil, criminal, and probate causes set for trial in common pleas court, showing dates of filing and proceedings; nature and number of cause; names of plaintiff, defendant, witnesses, and attorneys; and proceedings. Arr. numer. by cause no. No index. Hdw. 250 pp. 18 x 13 x 2.

185. BENCH DOCKET, COURT COMMON PLEAS, 1853-72. 6 vols. (A-F).

Record of proceedings and actions in civil and criminal causes of common pleas court, showing information as in entry 132. Arr. chron. by date of court term. No index. Hdw. 200 pp. 18 x 12 x 2.

186. JUDGES DOCKET, PROBATE, COURT COMMON PLEAS, 1853-73. 4 vols. (A-D).

Record of proceedings and action in estate and guardianship causes of common pleas court, showing date of court term; cause number; names of estate and administrator or executor or guardianship and guardian, sureties, and attorneys; and action taken. Arr. chron. by date of court term. No index. Hdw. 300 pp. 18 x 13 x 2½.

187. APPEARANCE DOCKET, PROBATE, 1853-71. 2 vols. (1, 2). Record of filing of actions, claims, and allowances in estate causes of common pleas court, showing information as in entry 155. Arr. chron. by date of filing. No index. Hdw. 320 pp. 18 x 13 x 3.

¹⁴ Acts 1853, ch. 33, sec. 1. Acts 1855, ch. 27, secs. 56, 94. Acts 1859, ch. 44, sec. 1; ch. 47, sec. 17; ch. 51, sec. 3. Acts 1869 (Spec. Sess.), ch. 28, sec. 2. Thew v. Gaskill, 10 Ind. 265 (1858).

¹⁵ Acts 1873, ch. 29, secs. 79-88.

- 188 JUDGMENT DOCKET COMMON PLEAS, 1853-73. 3 vols. (A-C).

Record of judgments rendered in civil and criminal causes of common pleas court, showing information as in entry 137. Arr. chron. by date of judgment. Indexed alph. by name of plaintiff; also separate index, entry 189. Hdw. 300 pp. 18 x 13 x 2½. Clk. vt.

189. JUDGMENT INDEX, COM[mon] PLEAS, 1853-73. 1 vol. Index to judgment docket common pleas, entry 188, showing names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by names of plaintiff and defendant. Hdw. 250 pp. 18 x 12 x 2. Clk. vt.

190. EXECUTION DOCKET, 1853-77. 4 vols. (A-D).

Record of writs issued for execution of judgments rendered in common pleas court, showing information as in entry 139. Arr. chron. by date of writ. Indexed alph. by names of plaintiff and defendant. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

191. FEE BOOK, COMMON PLEAS, 1853-73. 4 vols. (A-D). Record of fees and costs assessed in civil and criminal causes of common pleas court, showing cause number, names of plaintiff and defendant, and nature and amount of fees. Arr. numer. by cause no. Indexed alph. by names of plaintiff and defendant. Hdw. 450 pp. 18 x 12 x 2½.

VII. PROBATE COURT (1836-53)

EVOLUTION AND STRUCTURAL ORGANIZATION

From 1836 until 1853 Marshall County had a court officially known as "The Probate Court of Marshall County," presided over by one judge who was elected for a 7-year term by the voters of the county and commissioned by the Governor of Indiana. Before any person could be commissioned as a judge of the probate court, he was required to obtain from a judge of the Supreme Court or from a president judge of a circuit court a certificate showing he was qualified to discharge the duties of such office.¹

¹ Acts 1828-29, ch. 26, secs. 1, 2. Rev. L. 1831, ch. 25, secs. 1, 2, 4. Rev. Stat. 1838, ch. 24, secs. 1, 2, 4. Rev. Stat. 1843, ch. 4, secs. 1, 2, 9, 72; ch. 5, sec. 1; ch. 39, secs. 1-3. See footnote 11 herein.

Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

FUNCTIONS AND RECORDS

The probate court had exclusive original jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. The court also had original jurisdiction (concurrent with the circuit court) of partition proceedings; dower proceedings; proceedings for the appointment of commissioners to execute deeds on title bonds given by deceased obligors; proceedings for the authorization of the sale of guardianship property; and civil cases at law and in equity upon all demands or causes of action in favor of or against heirs, devisees, legatees, executors, administrators, or guardians, and their surties and representatives.² No appellate jurisdiction was vested in the probate court.³

The court could compel the attendance and testimony of witnesses; enforce its judgments and orders; punish for contempt; and issue all writs and orders necessary and incidental to the exercise of the jurisdiction mentioned in the preceding paragraph.⁴ The judge could solemnize marriages before 1838 and after 1843.⁵

² Acts 1828-29, ch. 26, secs. 2, 5, 6, 53-55. Rev. L. 1831, ch. 25, secs. 4, 19, 22, 31, 37, 39, 47, 57. Acts 1832-33, ch. 79, secs. 9, 10. Acts 1833-34, ch. 38, secs. 1, 2. Rev. Stat. 1838, ch. 24, secs. 4, 5; ch. 77, sec. 10. Rev. Stat. 1843, ch. 39, secs. 5, 6.

No general jurisdiction in chancery except in relation to the administration of guardianship and decedents' estates. *West v. Thornburg*, 6 Blackf. 542 (1843); *Powell v. North*, 3 Ind. 392 (1852).

Sale of guardianship property. *Graeter v. Wise*, 5 Blackf. 403 (1840); *Coon v. Cook*, 6 Ind. 268 (1855).

Suit against heirs of deceased vendee for specific performance of contract for sale of real estate. *Boyle v. Moss*, 4 Blackf. 535 (1838).

Suit to enforce vendor's lien on real estate. *West v. Thornburg*, 6 Blackf. 542 (1843).

Partition proceedings. *Taylor v. Connor*, 7 Ind. 115 (1855).

Amount in controversy in suits in favor of or against heirs, executors, etc. *Brown v. McQueen*, 6 Blackf. 208 (1842); *High v. Taylor*, 6 Blackf. 555 (1843).

Limitation on right to trial by jury. Rev. Stat. 1838, ch. 24, sec. 34.

³ *Board of County Comrs. v. Weasner*, 10 Ind. 259 (1858).

⁴ Acts 1828-29, ch. 26, secs. 2, 6, 7. Rev. L. 1831, ch. 25, secs. 4, 5, 49. Rev. Stat. 1838, ch. 24, secs. 5, 11. Rev. Stat. 1843, ch. 39, secs. 11, 13, 30.

⁵ Acts 1828-29, ch. 26, sec. 62. Rev. L. 1831, ch. 63, sec. 2. Rev. Stat. 1838, ch. 68, sec. 2. Rev. Stat. 1843, ch. 35, sec. 6.

The clerk of the circuit court and the county sheriff served as clerk and sheriff, respectively, of the probate court, and performed for the probate court duties similar to those which they now perform for the circuit court while that court is exercising jurisdiction which was vested in the probate court.⁶

Terms of court began on the second Monday of February, May, August, and November each year. Each term could last 6 days if the business of the court so required.⁷

Any matter within the jurisdiction of the probate court could be heard and disposed of by the circuit court in the same manner as the probate court, when the judge of the latter court was disqualified from acting.⁸ After June 15, 1852 the judge of the circuit court could hold regular terms of the probate court when the judge of the probate court failed to do so.⁹ Decisions of the probate court were reviewable by the circuit court or the Supreme Court.¹⁰

The probate court was abolished in 1853, and its jurisdiction and business were transferred to the court of common pleas, which had broader jurisdiction than the probate court.¹¹

For records of the probate court, see entries 119iii, iv, 120iii, iv, 154-176.

VIII. COURT OF CONCILIATION (1853-65)

EVOLUTION AND STRUCTURAL ORGANIZATION

From 1853 until 1865 Marshall County had a court officially known as the "Marshall Court of Conciliation." The

⁶ Acts 1828-29, ch. 26, secs. 3, 15; ch. 29, sec. 6. Rev. L. 1831, ch. 25, secs. 7-10, 15, 16, 18, 19, 22, 23, 32, 48. Rev. Stat. 1838, ch. 24, secs. 7, 9, 10, 15, 18, 19, 23, 24, 29, 34, 38, 46, 55. Rev. Stat. 1843, ch. 39, secs. 23, 42-45.

⁷ Acts 1831-32, ch. 159, sec. 1. Rev. Stat. 1838, ch. 24, sec. 68. Rev. Stat. 1843, ch. 39, sec. 40.

⁸ Acts 1829-30, ch. 29, sec. 7. Rev. L. 1831, ch. 25, sec. 6. Rev. Stat. 1838, ch. 24, sec. 6. Rev. Stat. 1843, ch. 39, sec. 9.

⁹ Acts 1851-52, ch. 34, secs. 1, 3.

¹⁰ Acts 1828-29, ch. 26, sec. 4. Rev. L. 1831, ch. 24, sec. 7; ch. 25, sec. 52. Acts 1832-53, ch. 79, secs. 9, 10. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

¹¹ 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, ch. 8, sec. 43, p. 23. Acts 1853, ch. 30, sec. 1. Jones v. Cavins, 4 Ind. 305 (1853). See the essay entitled "Court of Common Pleas (1853-73)."

judge of the court of common pleas was ex officio judge of the court of conciliation.¹

FUNCTIONS AND RECORDS

The court of conciliation, which was a court of record,² had jurisdiction of civil claims and controversies submitted to it for the purpose of effecting a compromise or for determination, where the parties agreed to abide the judgment of the court. The law did not authorize an appeal to another court.³

When a reconciliation was effected, the judge entered in a book of record a memorandum thereof, signed by the respective parties, stating the nature of the controversy, or alleged cause of action, the appearance of both parties, and the facts of the reconciliation. The terms of the reconciliation were not stated unless the parties agreed to specify them. The reconciliation thus effected was the final determination of the matter in controversy.⁴ When the parties agreed to a judgment in favor of one against the other in settlement of their differences, the judgment was entered at the foot of the entry of reconciliation. A transcript of such judgment certified by the judge was filed in the office of the clerk of the court of common pleas, and had the same effect, and could be enforced in the same manner, as a judgment of the court of common pleas.⁵

When any cause of action was claimed by or against any person for which a civil action might be brought, or when a controversy existed between two or more persons arising out of such alleged cause of action, the parties could appear before the court of conciliation, at any place within the county in which either party resided, for the purpose of effecting a compromise or of having a determination of all or any of such claims or controversies;⁶ and, upon the appearance of the parties, it was the duty of the court to require them respectively to state the nature of the controversy be-

¹ Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, ch. 2, sec. 2, p. 224. Acts 1865 (Spec. Sess.), ch. 57. See the essay entitled "Court of Common Pleas (1853-73)."

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins, 4 Ind. 305 (1853).

² Beach v. Woolford, 7 Ind. 351 (1855).

³ Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, ch. 2, sec. 1, p. 224.

⁴ 2 Rev. Stat. 1852, ch. 2, secs. 6, 13, pp. 225, 226.

⁵ *Ibid.*, secs. 7, 13.

⁶ *Ibid.*, sec. 11, p. 226.

between them, and present such claims as alleged. The statement could be made orally or in writing.⁷

When the parties, without a reconciliation, voluntarily submitted their matters of difference to the court for determination and agreed to abide the judgment, such submission was entered in a book of record and signed by the respective parties. On the hearing the court could take the statements of the parties, with or without oath. These controversies were determined according to conscience and right without regard to technical rules. The judgment had the same effect, and could be enforced in the same manner, as a judgment of the court of common pleas.⁸

The admissions and declarations (other than the entry of conciliation or judgment) made by the parties in proceedings before the court of conciliation were not binding in any other judicial proceedings.⁹

On claims for libel, slander, assault and battery, false imprisonment, and malicious prosecution, the complaining party could give written notice to the opposite party informing him of the claim and requiring him to appear at a specified place and time, in relation thereto, within 5 days, before the court of conciliation.¹⁰ The notice could be served by the sheriff or any other person, in the same manner as a summons in a civil action.¹¹ At the time specified in the notice, or at a later date set by the court, the parties were received by the judge, apart from all other persons, except that infants were attended by a guardian, and a female was attended by her husband or friend. The judge heard the allegations of the parties; informed them of their rights; endeavored to reconcile their differences; and advised such a compromise of the claim or controversy as he deemed just.¹² If, after the service of such notice, either party failed to appear, or if the parties appeared and did not become reconciled or did not submit the matter for determination, the judge made an entry in a book of record, stating the nature of the charge, the notice given, the proof of such service, and the failure of either party to appear or the

⁷ *Ibid.*, sec. 12.

⁸ *Ibid.*, secs. 14, 18.

⁹ *Ibid.*, sec. 20, p. 227.

¹⁰ *Ibid.*, sec. 3, p. 224.

¹¹ *Ibid.*, sec. 4.

¹² *Ibid.*, sec. 5.

appearance of the parties and their failure to become reconciled.¹³ The entries in such book of record, or certified copies thereof, signed by the judge, were evidence of the facts therein stated; and it was the duty of the judge to give a transcript of the entries in any case, certified by him, from his record, to either party on request.¹⁴ In any cause of action thereafter brought for recovery of damages for a cause of action mentioned above, except when the defendant was arrested, the plaintiff could not recover costs unless he produced such certified copy at the trial, and unless it thereby appeared that the notice was duly served, and that he appeared pursuant thereto, or that both parties appeared without notice. The defendant could not recover costs in such action when it appeared that he failed to appear pursuant to such notice.¹⁵

The court of conciliation was abolished in 1865, and no such tribunal has existed since then.¹⁶

No records for the court of conciliation were found in Marshall County.

IX. JURY COMMISSIONERS

EVOLUTION AND STRUCTURAL ORGANIZATION

Under the requirements of an act of 1881, Marshall County has two jury commissioners appointed annually by the judge of the circuit court. The commissioners must be electors of the county; must be of good moral character; must be of opposite politics; and must not be a party to or be interested in any cause pending in the county which may be tried by jury.¹ One commissioner must be a resident of the town or city in which the court is held.²

Each commissioner must take an oath that he will honestly, and without favor or prejudice, perform the duties of jury commissioner during his term of office; that, in selecting persons to be drawn as jurors, he will select none but persons whom he believes to be of good repute for intelligence and honesty; that he will select none whom he has been or may be requested to select; and that in all of his

¹³ *Ibid.*, sec. 8, p. 225.

¹⁴ *Ibid.*, sec. 9.

¹⁵ *Ibid.*, sec. 10. Nelson v. Turner, 7 Ind. 36 (1855).

¹⁶ Acts 1865 (Spec. Sess.), ch. 57.

¹ Acts 1881 (Spec. Sess.), 1899; Burns 4-3301, 4-3302; Baldwin 1266, 1274.

² Acts 1899; Burns 4-3301; Baldwin 1266. Dale v. State, 200 Ind. 408, 164 N. E. 260 (1928).

selections he will endeavor to promote only the impartial administration of justice.³

When a vacancy exists in the office, or when any commissioner fails to act when required, the judge of the circuit court must appoint some person to fill such vacancy or to act for the time being; and the appointee must possess the qualifications and take the same oath as was required of his predecessor. As compensation for his services, each commissioner receives a *per diem* fixed by the judge of the circuit court.⁴

FUNCTIONS AND RECORDS

Immediately after qualifying, the commissioners select the names of twice as many persons as will be required by law for service as grand and petit jurors in the courts of the county, for all the terms of courts within the calendar year next ensuing. These names are of legal voters and citizens of the United States; are taken from the current tax duplicates and schedules; are written on separate slips of paper; and are deposited in a jury box furnished by the clerk of the circuit court.⁵ After the names selected are deposited therein, the box is locked and turned over to the clerk of the circuit court. The key to the box is retained by the commissioner who is not an adherent of the same political party as is the clerk.⁶

At 10 A. M. on the Monday immediately preceding the commencement of any term of court, or at any time following said hour which may be practicable for such drawing, the clerk shakes the box, opens it in his office in the presence of the jury commissioners, and publicly draws therefrom such number of names of competent persons as the judge of such court shall order to be summoned as prospective jurors of such court.⁷

From 1852 until 1881 the board of commissioners selected the names from which grand jurors were drawn;⁸ and the treasurer, auditor, and recorder selected the names from which petit jurors were drawn.⁹ Prior to 1852 the board of

³ Acts 1881 (Spec. Sess.), 1899; Burns 4-3001; Baldwin 1266.

⁴ 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3303; Baldwin, 1939 suppl., 1275.

⁵ Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267.

⁶ *Ibid.*

⁷ Acts 1937; Burns, 1941 suppl., 4-3320; Baldwin, 1937 suppl., 1267-1.

⁸ 2 Rev. Stat. 1852, ch. 4, sec. 2, p. 387. Acts 1875 (Spec. Sess.), ch. 12, sec. 2.

⁹ 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

commissioners selected the names from which both grand and petit jurors were drawn.¹⁰

For records of the jury commissioners, see entries 180, 195.

X. PROBATION OFFICER

LEGAL STATUS

The office of probation officer has existed in Marshall County ever since 1925 under the permissive authority of an act of 1925. He is appointed for an indefinite term by the judge of the circuit court and may be removed by the judge at any time. His authority expires with the expiration of the judge's term. Recommendations for the discharge of a probation officer may be made by the State Probation Department.¹

He must have successfully passed an examination conducted by the State Probation Department, and been certified by such Department, which determines all eligibility requirements.² He must be at least 21 years old; must be of good moral character; must be a citizen of the State; and must be (a) a college graduate, or (b) a high school graduate with 1 year's experience in social welfare work, or (c) have had 4 years' experience as a paid probation officer.³

He receives a salary in an amount fixed by the judge, not exceeding \$2,500 per year. On allowance of the judge, the probation officer receives the actual expenses necessarily incurred by him in the performance of his official duties.⁴

When required by the judge the probation officer must post bond in an amount fixed by the judge. The bond is approved and kept by the judge.⁵ He must take an oath to

¹⁰ Acts 1817-18 (general), ch. 48, secs. 1, 2. Rev. L. 1824, ch. 56, secs. 1, 2, 5. Acts 1825, ch. 16, sec. 7. Acts 1826-27, ch. 26, secs. 1, 3. Rev. L. 1831, ch. 53, secs. 1, 4, 5. Rev. Stat. 1838, ch. 57, secs. 1, 4, 5. Acts 1840-41 (general), ch. 44. Rev. Stat. 1843, ch. 50, secs. 1, 3, 4, 7, 10.

¹ Const. 1851, art. 15, sec. 2. Acts 1925, ch. 218, sec. 1. Acts 1927; Burns 9-2212; Baldwin 2:63. Acts 1933; Burns 9-2904; Baldwin 15340. Op. Atty. Gen. 1933, p. 581; 1935, p. 166. Civil Order Book 112, p. 601.

² Acts 1933; Burns 9-2904; Baldwin 15340.

³ Information obtained from Mrs. Emory T. Scholl, director of the State Probation Department, on January 28, 1941, by William E. Chambers.

⁴ Acts 1927; Burns 9-2212; Baldwin 2363. Acts 1933; Burns 9-2905; Baldwin 15341.

⁵ Acts 1927; Burns 9-2213; Baldwin 2364.

support the State and Federal Constitutions and faithfully discharge the duties of his office.⁶

FUNCTIONS AND RECORDS

The probation officer acts under the direction of the court and under the supervision of the State Probation Department. He investigates all juvenile and criminal cases referred to him for investigation by the court; furnishes to each probationer a written statement of the conditions of probation and instructs him regarding the same; keeps informed concerning the conduct and condition of each probationer under his supervision by visiting, requiring reports, and otherwise; aids and encourages probationers to improve their conduct and condition; collects and issues receipts for money due from probationers; acts as parole officer over persons released on parole from any correctional institution upon request of authorities thereof and consent of the appointing judge; cares for children under 14 years old while in custody of the court; and has the power of a constable or sheriff in the execution of his duties.⁷

He may take under his supervision probationers transferred from the jurisdiction of another court by sending to such court a written notice bearing the written approval of the judge of the court to which he is attached.⁸

He must attend conferences of probation officers or of judges arranged by the State Probation Department for a study of probation problems.⁹

The probation officer must keep a detailed record of his work and an accurate and complete account of all moneys collected by him. From time to time he reports to the judge concerning the conduct and condition of probationers, the moneys collected by him, and other information required by the judge. Such reports are made monthly and at the expiration of probation period of any probationer, and at such other times as required by the court.¹⁰

⁶ Const. 1851, art. 15, sec. 4.

⁷ Acts 1903, ch. 257, sec. 2. Acts 1925, ch. 218, sec. 1. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364. Acts 1903, 1905, 1907, 1913; Burns 9-2814, 9-2815; Baldwin 1761, 1762. Acts 1933; Burns 9-2903; Baldwin 15339. Acts 1921; Burns 28-509; Baldwin 6702.

⁸ Acts 1927; Burns 9-2214; Baldwin 2365.

⁹ Acts 1933; Burns 9-2905; Baldwin 15341.

¹⁰ Acts 1927; Burns 9-2211, 9-2213; Baldwin 2362, 2364.

The duties of this office must be performed by the county director of public welfare when an order of the circuit court so requires.¹¹

No records of the probation officer were found in Marshall County.

XI. SHERIFF

LEGAL STATUS

The office of sheriff has existed in Marshall County ever since 1836 under the requirements of the Constitution of 1816 and the Constitution of 1851. The sheriff is elected for a 2-year term by the voters of the county. No person is eligible to hold the office more than 4 years in any 6-year period.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The sheriff must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁴ must reside within the county after his election,⁵ must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond in an amount between \$5,000 and \$15,000, to

^{1 1} Acts 1936; Burns, 1941 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21.

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 2, sec. 11; art. 6, sec. 2. Acts 1816-17, ch. 9, sec. 13; ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13; ch. 19, secs. 5, 6. Rev. L. 1824, ch. 35, sec. 13; ch. 59, sec. 1; ch. 100, secs. 5, 6, 8. Rev. L. 1831, ch. 97, sec. 5. Rev. Stat. 1838, ch. 99 (first act), sec. 5. Rev. Stat. 1843, ch. 4, secs. 1, 10. 2 Rev. Stat. 1852; Burns 49-2801; Baldwin 5493. Gemmer v. State ex rel. Stephens, 163, Ind. 150, 71 N. E. 478 (1904).

Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9, Acts 1835-36 (general), ch. 17, sec. 1.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 9, sec. 13; ch. 13, secs. 1, 8. Acts 1817-18 (general), ch. 19, 1, 6-8. Rev. L. 1824, ch. 100, secs. 1, 6. Rev. L. 1831, ch. 97, sec. 1. Rev. Stat. 1835, ch. 99 (first act), secs. 1, 6. Rev. Stat. 1843, ch. 4, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5. Acts 1817-18 (special), ch. 3, sec. 4. Rev. Stat. 1838, ch. 99 (first act), sec. 5.

⁴ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁵ Const. 1816, art. 11, sec. 6. Const. 1851, art. 6, sec. 6.

⁶ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

⁷ Rev. L. 1824, ch. 8, sec. 6. Rev. Stat. 1838, ch. 8 (first act), sec. 6. Acts 1865, ch. 42 (misnumbered 6), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State, 27 Ind. 491 (1867).

be approved by the board of commissioners and filed with the clerk of the circuit court.⁸ The sheriff must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹ Before 1853 he was entitled to certain exemptions from arrest.¹⁰

The sheriff receives a regular salary of \$2,080 per year.¹¹ He is permitted to retain, as compensation for himself, the fees charged for his services in the execution of process issued by courts outside of the county and in the collection of gross income taxes as directed by the State Department of Treasury. If the sheriff furnishes and maintains the vehicles used in the discharge of his official duties, he is paid \$400 annually by the county plus a mileage allowance at the rate of 6 cents per mile for each mile necessarily traveled in serving process, transporting persons to penal and benevolent institutions, and going for and returning fugitives.¹² For each meal served to the prisoners

⁸ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1817-18 (general), ch. 19, secs. 2-4, 7. Acts 1818-19, ch. 8, sec. 2. Acts 1821-22, ch. 46, secs. 1, 2. Rev. L. 1824, ch. 69, sec. 4; ch. 86, sec. 18; ch. 100, secs. 2, 8. Acts 1825, ch. 24, sec. 3. Acts 1826-27, ch. 49, sec. 2. Rev. L. 1831, ch. 97, secs. 2, 3. Rev. Stat. 1838, ch. 76; ch. 99 (first act), secs. 3, 7, 8. Rev. Stat. 1843, ch. 4, secs. 86, 101; ch. 38, secs. 69, 70. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852. Acts 1937; Burns, 1941 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

⁹ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 19, secs. 4, 8. Rev. L. 1824, ch. 100, sec. 4. Rev. L. 1831, ch. 97, secs. 4, 8. Rev. Stat. 1838, ch. 99 (first act), sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 92; ch. 38, sec. 71. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057. Acts 1937; Burns, 1941 suppl., 49-2801; Baldwin, 1937 suppl., 5493. State ex rel. Chapman v. Lines, 4 Ind. 351 (1853).

¹⁰ Acts 1817-18 (general), ch. 54, sec. 3. Rev. L. 1824, ch. 78, sec. 3. Rev. Stat. 1843, ch. 52, sec. 6. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing the foregoing laws).

¹¹ Acts 1816-17, ch. 19, sec. 16. Acts 1817-18 (general), ch. 40, sec. 10; ch. 42, sec. 23. Acts 1825, ch. 17, sec. 8. Acts 1827-28, ch. 80, sec. 5. Acts 1828-29, ch. 16, sec. 9. Rev. L. 1831, ch. 20, sec. 26. Rev. Stat. 1838, ch. 4 (first act), sec. 1; ch. 21, sec. 26; ch. 23 (first act), sec. 9; ch. 33, sec. 12. Rev. Stat. 1843, ch. 7, sec. 27. 1 Rev. Stat. 1852, ch. 3, sec. 4; ch. 20, sec. 25. Acts 1937; Burns 49-1001; Baldwin 7574. Acts 1879 (Spec. Sess.); Burns 49-2808; Baldwin 5503.

¹² Acts 1822-23, ch. 27, ch. 91, sec. 6, sec. 2. Rev. L. 1824, ch. 29, secs. 83, 84; ch. 41, secs. 2, 12. Rev. Stat. 1843, ch. 55, sec. 101. 1 Rev. Stat. 1852, ch. 70, sec. 1. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1933, 1927; Burns, 1941 suppl., 49-1008; Baldwin, 1937 suppl., 7538. Acts 1932 (Spec. Sess.); Burns 49-1315, 49-1316; Baldwin 7573, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1. Acts 1933, 1937; Burns, 1941 suppl., 61-2613 (a); Baldwin, 1937 suppl., 15983 (a). McFarlan v. State, 149 Ind. 149 (1897); Board of County Comrs. v. Baker, 215 Ind. 163, 19 N. E. (2d) 250 (1939). Op. Atty. Gen. 1933, p. 582; 1934, p. 367; 1938, p. 303; 1939, pp. 171, 258, 328.

in his charge, the sheriff receives an allowance not exceeding 20 cents, as determined annually by the State Examiner.¹³

For sufficient legal grounds the sheriff may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹⁴ If the sheriff is convicted of a felony, or of permitting the lynching of any prisoner in his custody, the judgment of conviction must declare his office vacant.¹⁵

Any vacancy in the office of sheriff is filled through appointment by the board of commissioners. The coroner performs the duties of sheriff until a new appointment is made. The appointee must take an oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹⁶

The sheriff may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes their salaries, which must be not less than \$75 nor more than \$200 per month. The sheriff may require each deputy to give bond. Each deputy must take the oath required of the sheriff, may perform all of the official duties of the sheriff, and is subject to the same regulations and penalties. The sheriff may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁷

¹³ Acts 1817-18 (general), ch. 32, sec. 8, ch. 61, sec. 6. Rev. L. 1824, ch. 77, sec. 7. Rev. L. 1831, ch. 22, sec. 9. Rev. Stat. 1838, ch. 82, sec. 3. Rev. Stat. 1843, ch. 55, sec. 19; ch. 57, secs. 4, 9, 10. 1 Rev. Stat. 1852, ch. 58, sec. 11 (repealed by Acts 1937, ch. 157, sec. 3). 1 Rev. Stat. 1852; Burns 13-1012, 13-1013; Baldwin 13454, 13455. Acts 1935; Burns, 1941 suppl., 49-1323; Baldwin, 1935 suppl., 13455-1. Op. Atty. Gen. 1934, p. 107.

¹⁴ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. L. 1824, ch. 22, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁵ Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁶ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, secs. 7, 9. Acts 1817-18 (general), ch. 19, secs. 7, 9. Acts 1820-21, ch. 19, sec. 1. Acts 1822-23, ch. 13, sec. 3. Rev. L. 1824, ch. 100, secs. 7-9, 11. Rev. L. 1831, ch. 97, secs. 6, 7, 9. Rev. Stat. 1838, ch. 99 (first act), secs. 7, 9, p. 565. Rev. Stat. 1843, ch. 4, secs. 140, 155, 162, 163; ch. 38, sec. 83. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437. *Akers v. State ex rel. Kent*, 8 Ind. 484 (1856); *State ex rel. Culbert v. Linkhauer*, 142 Ind. 94, 41 N. E. 325 (1895). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁷ Acts 1818-19, ch. 17, sec. 3. Rev. L. 1824, ch. 100, sec. 10. Rev. L. 1831, ch. 97, sec. 10.

FUNCTIONS AND RECORDS

The sheriff is a conservator of the peace within the county.¹⁸ He is required to arrest without process all persons who within his view commit any criminal offense under the state laws, and detain them in custody during investigation of the cause of the arrest;¹⁹ suppress all breaches of the peace, having authority to call to his aid the power of the county;²⁰ pursue and commit to jail all felons;²¹ maintain the jail and take care of the prisoners confined therein (persons held for investigation, detained witnesses, defendants awaiting trial, insane persons, and convicts);²² execute all process, orders, and warrants directed to him by legal authority,²³ and make returns

Rev. Stat. 1838, ch. 99 (first act), sec. 10, p. 565. Rev. Stat. 1843, ch. 38, sec. 79. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-503; Baldwin 13109, 13110. Acts 1921; Burns 49-504; Baldwin 13111. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. *Boaz v. Tate*, 43 Ind. 60 (1873). Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

¹⁸ Acts 1817-18 (general), ch. 4, sec. 2; ch. 20, sec. 1; ch. 57, sec. 9; ch. 62, sec. 4. Rev. L. 1831, ch. 21, sec. 10, Rev. Stat. 1838, ch. 22, sec. 10. Rev. Stat. 1843, ch. 18, sec. 72. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

¹⁹ Acts 1817-18 (general), ch. 11, sec. 11; ch. 20, sec. 1; ch. 57, sec. 9. Acts 1820-21, ch. 13, sec. 2. Rev. L. 1824, ch. 100, sec. 10. Acts 1829-30, ch. 46, sec. 16. Rev. L. 1831, ch. 97, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73; ch. 40, secs. 43-47. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁰ Acts 1816-17, ch. 10, sec. 15; ch. 32, sec. 9. Acts 1817-18 (general), ch. 4, sec. 2; ch. 20, sec. 1. Rev. L. 1824, ch. 100, secs. 10, 14. Acts 1829-30, ch. 46, sec. 16. Rev. L. 1831, ch. 97, secs. 10, 14. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, secs. 73, 80. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²¹ Acts 1817-18 (general), ch. 20, sec. 1. Rev. L. 1824, ch. 100, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²² Acts 1816-17, ch. 2, sec. 7. Acts 1817-18 (general), ch. 4, sec. 18; ch. 20, sec. 1; ch. 32, sec. 8. Acts 1819-20, ch. 72, sec. 11. Acts 1822-23, ch. 89. Rev. L. 1824, ch. 46, sec. 3; ch. 77; secs. 2, 4, 7; ch. 100, sec. 10. Rev. L. 1831, ch. 42, sec. 3; ch. 75, sec. 7; ch. 97, sec. 10. Rev. Stat. 1838, ch. 73, sec. 3; ch. 82; sec. 83; ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73; ch. 57, sec. 3. 1 Rev. Stat. 1852; Burns 13-1004, 13-1011; Baldwin 13453, 13465.

²³ Acts 1816-17, ch. 2, sec. 7. Acts 1817-18 (general), ch. 2, sec. 7; ch. 3, secs. 10, 35; ch. 5, sec. 39; ch. 11, sec. 11; ch. 20, sec. 1; ch. 27, secs. 2, 4; ch. 42, sec. 5; ch. 48, secs. 3, 4; ch. 62, secs. 2-4; ch. 63, sec. 2. Rev. L. 1824, ch. 1, sec. 6; ch. 5, sec. 10; ch. 24, sec. 6; ch. 34, sec. 12; ch. 56, secs. 3, 5; ch. 73, secs. 2, 22, 27; ch. 74, secs. 10, 41; ch. 86, secs. 5, 29, 42; ch. 100, sec. 10; ch. 117, secs. 1-3. Rev. L. 1831, ch. 1, secs. 1, 2; ch. 17, sec. 2; ch. 20, sec. 23; ch. 24, sec. 6, ch. 26, sec. 38; ch. 36, sec. 17; ch. 42, sec. 1; ch. 43, secs. 3, 8; ch. 49, sec. 2; ch. 53, sec. 2;

thereon;²⁴ and to preserve and maintain order in the circuit court (also formerly in the probate court and court of common pleas).²⁵

The sheriff makes arrests on warrants issued on indictments and affidavits, and detains the arrested persons in jail²⁶

ch. 73 (misnumbered 78), sec. 10; ch. 81, sec. 4; ch. 97, sec. 10; ch. 103, sec. 1; ch. 108, secs. 2-4. Rev. Stat. 1838, ch. 21, sec. 29; ch. 23 (first act), sec. 5; ch. 30, sec. 6; ch. 43, sec. 2; ch. 46, sec. 3; ch. 49, secs. 1, 2; ch. 57 (first act), sec. 2; ch. 81 (first act), secs. 10, 51; ch. 81 (sixth act), sec. 1, p. 463; ch. 99 (first act), secs. 10, 12. Rev. Stat. 1843, ch. 4, sec. 121; ch. 12, sec. 81; ch. 38, secs. 73, 76, 88; ch. 45, secs. 160-162, 170; ch. 46, secs. 7, 167-171; ch. 48, secs. 6, 9, 32, 100, 102; ch. 50, secs. 8, 14; ch. 54, secs. 70, 93. 2 Rev. Stat. 1852, ch. 1, secs. 132, 134, p. 379; ch. 9, sec. 2, p. 24. Acts 1881 (Spec. Sess.); Burns 2-802 *et seq.*, 3-522, 3-1910 to 3-1912, 3-2705; Baldwin 83 *et seq.*, 791, 1026 to 1029, 1202. Acts 1859; Burns 4-3308; Baldwin 1279. Acts 1907; Burns 9-821; Baldwin 2117. Acts 1905; Burns 10-3707; Baldwin 2654. 2 Rev. Stat. 1852; Burns 49-2803; Baldwin 5493.

²⁴ Acts 1816-17, ch. 4, secs. 6, 31. Acts 1817-18 (general), ch. 3, secs. 4, 5, 10; ch. 10, sec. 14; ch. 22, sec. 11; ch. 40, secs. 6, 7. Acts 1820-21, ch. 1, sec. 3. Acts 1821-22, ch. 64, sec. 2. Rev. L. 1824, ch. 40, sec. 22; ch. 45, sec. 14; ch. 73, sec. 4; ch. 74, sec. 8; ch. 99, sec. 2. Rev. L. 1831, ch. 36, secs. 17, 28; ch. 72, sec. 4; ch. 73 (misnumbered 78), secs. 8, 51. Rev. Stat. 1838, ch. 6, sec. 6; ch. 80, sec. 4; ch. 81, sec. 8; ch. 99 (first act), sec. 13; ch. 112, sec. 1. Rev. Stat. 1843, ch. 40, secs. 26-29, 32, 457, 469; ch. 41, sec. 14; ch. 48, secs. 10, 73; ch. 54, secs. 19, 70. 2 Rev. Stat. 1852, ch. 9, sec. 2, p. 24; ch. 1, secs. 109, 415, pp. 52, 131 (both repealed by Acts 1863, ch. 5, sec. 5); ch. 1, sec. 139, p. 380 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323); ch. 4, sec. 6, p. 387. Acts 1881 (Spec. Sess.); Burns 3-1913, 3-1914; Baldwin 1029, 1030. Acts 1905; Burns 9-1034; Baldwin 2179.

²⁵ Circuit court. Acts 1816-17, ch. 1, secs. 6, 9, 10; ch. 5, sec. 51. Acts 1817-18 (general), ch. 20, sec. 1. Acts 1821-22, ch. 64, sec. 4. Rev. L. 1824, ch. 100, sec. 10. Acts 1817-18 (general), ch. 20, sec. 1. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73. 2 Rev. Stat. 1852, ch. 6, sec. 4, p. 11.

Probate court. Acts 1828-29, ch. 26, sec. 3. Rev. L. 1831, ch. 25, secs. 7, 48. Rev. Stat. 1838, ch. 24, secs. 7, 10. Rev. Stat. 1843, ch. 39, secs. 12, 17, 42, 45. Court abolished. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, ch. 8, sec. 43, p. 23.

Court of common pleas. 2 Rev. Stat. 1852, ch. 8, sec. 25, p. 20. Court abolished. Acts 1873; Burns 4-328; Baldwin 1417.

²⁶ Acts 1816-17, ch. 2, sec. 7; ch. 24, sec. 3; ch. 32, sec. 9. Acts 1817-18 (general), ch. 2, sec. 7; ch. 4, sec. 2; ch. 20, sec. 1; ch. 27, sec. 2; ch. 36, sec. 1; ch. 62, sec. 2; ch. 78, sec. 3. Acts 1818-19, ch. 7, sec. 2. Acts 1819-20, ch. 25. Acts 1820-21, ch. 13, sec. 2. Acts 1821-22, ch. 64, secs. 2, 3. Rev. L. 1824, ch. 40, secs. 14, 17; ch. 46, secs. 1, 3; ch. 47, secs. 1-3; ch. 50, sec. 1; ch. 75, secs. 3, 4; ch. 77, sec. 4; ch. 99, sec. 2; ch. 114, secs. 2, 4. Rev. Stat. 1838, ch. 27, sec. 14; ch. 28, sec. 4; ch. 45, secs. 1-4; ch. 48, sec. 2; ch. 51, secs. 1, 7. Rev. Stat. 1843, ch. 20, secs. 1, 22; ch. 45, sec. 185; ch. 54, secs. 18, 20. 2 Rev. Stat. 1852, ch. 1, secs. 106, 107, p. 51. Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. 1 Rev. Stat. 1852, 1865 (Spec. Sess.); Burns 13-1009; Baldwin 13463.

Proceedings by insolvent debtor to obtain release on assignment for benefit of creditors.

or releases them on bail as provided by law;²⁷ formerly set trial dates for prisoners unable to make bail;²⁸ formerly adjourned court when the judge was absent;²⁹ serves summonses in cases of misdemeanors;³⁰ deputizes bystanders to aid him in protecting persons from being lynched;³¹ calls the petit jury for civil and criminal cases as prescribed by law or directed by the court;³² performs the duties of bailiff of the circuit court if no bailiff is appointed by the judge of that court;³³ transports persons committed to the charitable, correctional, and penal institutions operated by the State;³⁴ sells certain estrays³⁵ and driftage;³⁶ seizes and sells property as directed by any circuit court or superior court,³⁷

Acts 1817-18 (general), ch. 61, secs. 1-3, 5, 6. Acts 1819-20, ch. 72, secs. 10, 11. Acts 1820-21, ch. 5, sec. 1. Acts 1822-23, ch. 49, sec. 3. Rev. L. 1824, ch. 54, secs. 1-4, 10, 11, 14. Acts 1828-29, ch. 32, secs. 1, 2. Rev. L. 1831, ch. 27, sec. 14.

²⁷ Acts 1816-17, ch. 4, secs. 7, 10. Acts 1817-18 (general), ch. 2, sec. 7; ch. 3, secs. 6, 9. Acts 1821-22, ch. 23, sec. 8. Acts 1822-23, ch. 23. Rev. L. 1824, ch. 23, sec. 3; ch. 29, secs. 70, 82; ch. 40, sec. 14; ch. 77, sec. 2; ch. 100, sec. 10. Rev. L. 1831, ch. 26, sec. 90; ch. 97, sec. 10. Rev. Stat. 1838, ch. 26, sec. 90; ch. 51, sec. 8. Rev. Stat. 1843, ch. 54, sec. 21; ch. 57, secs. 22, 23. 2 Rev. Stat. 1852, ch. 1, sec. 108, p. 51.

²⁸ Acts 1825, ch. 17, secs. 1, 3, 6, 7.

²⁹ Acts 1816-17, ch. 1, sec. 10. Acts 1817-18 (general), ch. 2, sec. 10. Rev. L. 1824, ch. 24, sec. 8. Rev. L. 1831, ch. 22, sec. 7. Rev. Stat. 1838, ch. 23 (first act), sec. 7. Rev. Stat. 1843, ch. 38, sec. 34.

³⁰ Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1939; Burns, 1941 suppl., 47-2307, 47-2308; Baldwin, 1939 suppl., 11189-174, 11189-175.

³¹ Acts 1817-18 (general), ch. 48, sec. 3. Rev. L. 1824, ch. 100, sec. 14. Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. State ex rel. Maxwell v. Dudley, 161 Ind. 431, 68 N. E. 899 (1903).

³² Acts 1881 (Spec. Sess.); Burns 2-2002; Baldwin 327. Acts 1905; Burns 9-1501; Baldwin 2246.

³³ Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256.

³⁴ Rev. L. 1824, ch. 29, secs. 83, 84. Rev. L. 1831, ch. 26, secs. 86, 87; ch. 41, secs. 25, 26. Rev. Stat. 1838, ch. 26, secs. 86, 87. Rev. Stat. 1843, ch. 54, sec. 74. 2 Rev. Stat. 1852, ch. 1, secs. 136, 137, p. 379. Acts 1905; Burns 9-2232, 22-2013; Baldwin 2339, 4206. Acts 1927; Burns 22-1213; Baldwin 4305. Acts 1911; Burns 22-1716; Baldwin 4200. Acts 1919; Burns 22-1803; Baldwin 4264.

³⁵ Rev. L. 1831, ch. 35, sec. 8. Rev. Stat. 1838, ch. 37, sec. 8. Rev. Stat. 1843, ch. 21, sec. 13. 1 Rev. Stat. 1852; Burns 51-311; Baldwin 13238.

³⁶ Rev. L. 1831, ch. 35, sec. 9. Rev. Stat. 1838, ch. 37, sec. 10. Acts 1901, 1913; Burns 51-332; Baldwin 13259.

³⁷ Acts 1816-17, ch. 5, sec. 51. Acts 1817-18 (general), ch. 3, sec. 4; ch. 4, sec. 18; ch. 6, sec. 3; ch. 7, secs. 2, 8, 22; ch. 10, secs. 10, 14; ch. 11, secs. 1, 4; ch. 22, secs. 2-6, 8; ch. 24,

takes security bonds in connection with such seizures and sales,³⁸ and executes conveyances to the purchasers;³⁹ collect* fee-bills issued by authorized public officials;⁴⁰ executes the process of the Supreme Court of Indiana,⁴¹ the Appellate Court of Indiana,⁴² the State Board of Tax Commissioners,⁴³ the State Department of Treasury (collection of gross income tax),⁴⁴ the State Unemployment Compensation Board (collection of assessments against employers),⁴⁵ the

sec. 2; ch. 40, secs. 6, 7; ch. 61, secs. 2, 3; ch. 66, sec. 1. Acts 1819-20, ch. 56, secs. 1-3. Acts 1821-22, ch. 4, secs. 4-6; ch. 14, sec. 1; ch. 79, sec. 2. Acts 1822-23, ch. 48, sec. 10. Rev. L. 1824, ch. 5, secs. 2, 8, 10, 13, 22, 26, 28; ch. 6, sec. 4; ch. 34, secs. 2, 5, 11; ch. 39, sec. 6; ch. 40, secs. 3-5, 7-10, 12, 14, 17-19; ch. 45, sec. 10; ch. 85, sec. 6; ch. 99, sec. 2; ch. 114, sec. 3. Acts 1825, ch. 23, sec. 1. Acts 1829-30, ch. 35, sec. 1. Rev. L. 1831, ch. 6, secs. 6, 7; ch. 7, sec. 5; ch. 36, secs. 2, 6, 11, 25, 26; ch. 79, sec. 5; ch. 80, sec. 6. Rev. Stat. 1838, ch. 6, secs. 6, 7, 11, 18; ch. 7 (first act), sec. 5; ch. 44, secs. 25, 26; ch. 88, secs. 4-6. Rev. Stat. 1843, ch. 40, secs. 371-384, 390-392, 407, 413-423; ch. 41, secs. 12-14, 30, 50; ch. 42, sec. 17; ch. 40, sec. 167. 2 Rev. Stat. 1852, pt. 2, ch. 1, secs. 445, 446, 457, 458, pp. 137, 139. Acts 1881 (Spec. Sess.); Burns 2-2601, 3-1819; Baldwin 574, 1014.

³⁸ Acts 1816-17, ch. 6, sec. 1. Acts 1817-18 (general), ch. 3, secs. 6, 9; ch. 4, sec. 18; ch. 11, sec. 10; ch. 42, secs. 24, 26. Acts 1821-22, ch. 4, secs. 4, 5; ch. 23, sec. 8; ch. 43, sec. 4. Acts 1822-23, ch. 46, sec. 4; ch. 48, sec. 10. Rev. L. 1824, ch. 34, secs. 11, 12; ch. 40, sec. 100; ch. 85, sec. 5. Acts 1825, ch. 23, secs. 4, 5. Acts 1829-30, ch. 35, sec. 1. Rev. L. 1831, ch. 15, sec. 7; ch. 80, sec. 5. Rev. Stat. 1838, ch. 14 (first act), sec. 5; ch. 26, sec. 91; ch. 39 (first act); ch. 88, sec. 5. Rev. Stat. 1843, ch. 40, secs. 385-387; ch. 41, sec. 34.

³⁹ Acts 1820-21, ch. 19, sec. 6. Rev. Stat. 1843, ch. 40, secs. 424-426. 2 Rev. Stat. 1852, ch. 1, sec. 472, p. 143. Acts 1881 (Spec. Sess.); Burns 2-4101; Baldwin 619. Acts 1831; Burns 3-1806; Baldwin 1008.

⁴⁰ Acts 1817-18 (general), ch. 40, secs. 5-7, 9; ch. 66, sec. 1. Acts 1822-23, ch. 26, secs. 1-3. Rev. L. 1824, ch. 24, sec. 13; ch. 41, secs. 7, 9; ch. 72, sec. 23; ch. 100, sec. 11. Acts 1825, ch. 24, secs. 1-3. Rev. Stat. 1838, ch. 40 (first act), secs. 8, 15, 16, 19; ch. 99 (first act), sec. 11. Acts 1881 (Spec. Sess.); Burns 2-3303, 2-3310; Baldwin 525, 528. Acts 1875 (Spec. Sess.); Burns 49-1425, 49-1426; Baldwin 13119, 13120. Acts 1855; Burns 49-1427, 49-1428; Baldwin 13122, 13123.

⁴¹ Acts 1816-17, ch. 1, secs. 6, 9, 10. Acts 1817-18 (general), ch. 1, secs. 6, 9, 10. Acts 1822-23, ch. 91, secs. 1, 3. Rev. L. 1824, ch. 1, sec. 6; ch. 25, secs. 6, 12; ch. 100, sec. 13. Rev. L. 1831, ch. 24, sec. 6; ch. 97, sec. 13. Rev. Stat. 1838, ch. 25, secs. 11, 12, 19. Rev. Stat. 1843, ch. 37, secs. 126-133, 137. Acts 1891; Burns 4-228, 4-230; Baldwin 1375, 1378. 2 Rev. Stat. 1852; Burns 49-2203; Baldwin 1339. 2 Rev. Stat. 1852, Acts 1889; Burns 49-2204; Baldwin 1340.

⁴² Acts 1891; Burns 4-228; Baldwin 1375.

⁴³ Acts 1919; Burns 64-1303; Baldwin 10705.

⁴⁴ Acts 1933, 1937; Burns, 1941 suppl., 64-2613 (a); Baldwin, 1937 suppl., 15993 (a). Op. Atty. Gen. 1938, p. 303; 1939, pp. 171, 258.

⁴⁵ Acts 1936 (Spec. Sess.), 1939; Burns, 1941 suppl., 52-1514 (b); Baldwin, 1939 suppl., 10168-61.

State Industrial Board,⁴⁶ the county board of election commissioners, and the county board of canvassers,⁴⁷ when officially directed to do so; attends sessions of the board of commissioners,⁴⁸ county council,⁴⁹ and board of review,⁵⁰ and executes the orders of those boards; issues licenses for the retail sale of pistols;⁵¹ makes investigations of poultry dealers, and receives weekly reports from them;⁵² kills unlicensed dogs after June 15 each year;⁵³ assists the State Board of Health in the administration of laws concerning contagious diseases;⁵⁴ and gives public notice of the holding of elections.⁵⁵ In the early days of the county he performed various duties concerning elections⁵⁶ and the distribution of journals and session laws of the Legislature.⁵⁷ Formerly

⁴⁶ Acts 1937; Burns, 1941 suppl., 40-2217(a); Baldwin, 1937 suppl., 16515(a).

⁴⁷ Acts 1905; Burns 29-1408; Baldwin 7384.

⁴⁸ Acts 1816-17, ch. 15, sec. 6. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6; ch. 86, secs. 5, 29, 42. Acts 1826-27, ch. 13, sec. 6. Acts 1827-28, ch. 77, sec. 19. Acts 1828-29, ch. 16, sec. 6; ch. 17, sec. 6. Rev. L. 1831, ch. 20, sec. 6; ch. 81, sec. 3; ch. 82, sec. 48. Rev. Stat. 1843, ch. 7, secs. 5, 25. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

⁴⁹ Acts 1899; Burns 26-510; Baldwin 5374.

⁵⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-120; Baldwin 15700.

⁵¹ Acts 1935, 1937; Burns, 1941 suppl., 10-4742; Baldwin 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the Superintendent of the State Police. *Ibid.*

⁵² Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803(b); Baldwin 10437. Acts 1903; Burns 35-411; Baldwin 8541.

⁵³ Acts 1937; Burns, 1941 suppl., 16-330; Baldwin, 1937 suppl., 3811-14.

⁵⁴ Acts 1917; Burns 35-504; Baldwin 8546.

⁵⁵ Acts 1816-17, ch. 9, sec. 15; ch. 12, sec. 5. Acts 1817-18 (special), ch. 3, secs. 1, 3. Acts 1817-18 (general), ch. 17, sec. 1; ch. 49, sec. 5. Rev. L. 1824, ch. 35, sec. 15; ch. 36, sec. 1; ch. 37, sec. 1; ch. 59, sec. 3. Acts 1827-28, ch. 80, secs. 1, 5. Acts 1829-30, ch. 47. Rev. L. 1831, ch. 59, sec. 4. Rev. Stat. 1838, ch. 33, sec. 11; ch. 34, secs. 1, 3. Rev. Stat. 1843, ch. 5, secs. 8, 10, 12, 76, 135; ch. 18, secs. 21-24; ch. 25, sec. 73. 1 Rev. Stat. 1852, ch. 31, sec. 2; ch. 119, sec. 2. Acts 1881 (Spec. Sess.); Burns 29-702, 29-1703; Baldwin 7082, 7248. *Demaree v. Johnson*, 150 Ind. 419, 49 N. E. 1052 (1897).

⁵⁶ Acts 1816-17, ch. 9, secs. 1, 16, 22; ch. 12, sec. 5; ch. 14, secs. 2, 6, 8. Acts 1817-18 (special), ch. 3, secs. 1-3. Acts 1817-18 (general), ch. 15, secs. 1, 15, 16, 19, 22; ch. 17, secs. 1, 8; ch. 49, sec. 5. Acts 1822-23, ch. 13, secs. 1, 2. Rev. L. 1824, ch. 35, secs. 16, 22; ch. 36, sec. 1; ch. 37, sec. 2; ch. 59, sec. 3. Acts 1826-27, ch. 13, sec. 20. Rev. L. 1831, ch. 23, sec. 2; ch. 32, secs. 1, 16, 19, 22; ch. 57, secs. 1, 3. Rev. Stat. 1838, ch. 32, secs. 1, 28, 34; ch. 33, sec. 2; ch. 61, secs. 1-3. Rev. Stat. 1843, ch. 5, secs. 57, 58, 90, 91, 101, 110, 114, 115, 136. 1 Rev. Stat. 1852, ch. 32, sec. 3; ch. 34, secs. 7, 8. Acts 1889, ch. 87, sec. 15. Acts 1891, ch. 94, sec. 2.

⁵⁷ Acts 1825, ch. 34, secs. 6, 7. Rev. Stat. 1843, ch. 6, secs. 73, 75.

he was required to bring suit for statutory penalties against persons passing bank notes issued by banks located outside the state.⁵⁸

The sheriff keeps in his office, open to public inspection, written information (furnished by the State Motor Vehicle Commissioner every 90 days) as to all motor vehicle operators' and chauffeurs' licenses issued, denied, suspended, and revoked in the State.⁵⁹ Information concerning stolen motor vehicles is reported by the sheriff to the State Motor Vehicle Commissioner.⁶⁰ The sheriff receives reports of deaths resulting from the operation of motor vehicles in the county (except in cities and towns), makes immediate investigations concerning such deaths, and reports the facts to the State Division of Public Safety within 24 hours thereafter.⁶¹ All arrests made by the sheriff for the violation of laws concerning the operation of motor vehicles are reported by him to the State Motor Vehicle Commissioner.⁶²

For public displays of fireworks in the county (except in cities and towns), the sheriff approves the location, operator, permit, and indemnity bond, in accordance with regulations prescribed by the State Fire Marshall.⁶³ From 1911 until 1935 the sheriff assisted local health authorities in quarantining, muzzling, and killing dogs in accordance with the laws concerning hydrophobia.⁶⁴

The sheriff charges the fees provided by law for the services he performs and pays the same over to the county treasurer.⁶⁵ Fines imposed by the circuit court are collected

⁵⁸ Rev. Stat. 1838, ch. 75, sec. 2.

⁵⁹ Acts 1927, ch. 33, sec. 3. Acts 1937, 1939; Burns, 1941 suppl., 47-442; Baldwin, 1939 suppl., 11317-11.

⁶⁰ Acts 1921; Burns 47-314; Baldwin 11142.

⁶¹ Acts 1933, ch. 189, sec. 2. Acts 1937, ch. 129, sec. 1. Acts 1939; Burns, 1941 suppl., 47-1915, 47-1916; Baldwin, 1939 suppl., 11189-54, 11189-55.

⁶² Acts 1937; Burns, 1941 suppl., 47-448; Baldwin, 1937 suppl., 11317-17.

⁶³ Acts 1939; Burns, 1941 suppl., 20-1102, 20-1103; Baldwin, 1939 suppl., 2542-2, 2542-3. Information obtained from Clem Smith, State Fire Marshal, on April 15, 1940, by W. Davis Hamilton.

⁶⁴ Acts 1911, ch. 98, secs. 5, 6 (repealed by Acts 1935, ch. 271, sec. 1).

⁶⁵ Acts 1817-18 (general), ch. 40, sec. 9. Rev. L. 1824, ch. 24, sec. 13; ch. 41, secs. 2, 9; ch. 72, sec. 23. Rev. L. 1831, ch. 35, sec. 8. Rev. Stat. 1843, ch. 5, secs. 120, 121; ch. 21, sec. 13; ch. 38, sec. 75. 1 Rev. Stat. 1852, ch. 37, secs. 1, 6. Acts 1871, ch. 17, sec. 20. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1932 (Spec. Sess.); Burns 49-1312, 49-1315, 49-1316; Baldwin 7571, 7573, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

by him and paid over to the county treasurer.⁶⁶

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.⁶⁷

Whenever the sheriff is unable to attend to his duties, the coroner performs them;⁶⁸ and if both the sheriff and coroner are unable to act, it is then the duty of the judge of the circuit court to appoint an elisor who discharges the sheriff's duties until the disability of the sheriff or coroner is removed.⁶⁹

The sheriff keeps a record of the service of process⁷⁰ and record of executions. He makes an annual written report, under oath, to the circuit court showing all executions and other process in his hands, what levies he has made, the amount of money collected on each execution, and when service thereof was made, which report is to be entered on the order book of the circuit court.⁷¹ He keeps a jail record,⁷² a poultry dealers' record,⁷³ and fee and cash records.⁷⁴

⁶⁶ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1817-18 (special), ch. 4, sec. 1. Acts 1820-21, ch. 19, sec. 1. Acts 1822-23, ch. 26, secs. 2, 3. Rev. L. 1824, ch. 22, sec. 8; ch. 29, sec. 80; ch. 57, sec. 42; ch. 100, sec. 11. Acts 1825, ch. 69, secs. 1, 2. Acts 1871, ch. 17, sec. 20. Acts 1905, 1927; Burns 9-2226 to 9-2228; Baldwin 2332, 2334, 2335.

Fines imposed by justices of the peace. Rev. L. 1824, ch. 57, sec. 42.

⁶⁷ Acts 1816-17, ch. 2, sec. 10. 2 Rev. Stat. 1852, ch. 4, secs. 4, 17, pp. 6, 7. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

⁶⁸ Acts 1816-17, ch. 13, sec. 9. Acts 1817-18 (general), ch. 19, sec. 9. Rev. L. 1824, ch. 100, sec. 9. Rev. L. 1831, ch. 97, sec. 9. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901, 49-2902; Baldwin 5436, 5437.

⁶⁹ Acts 1825-26, ch. 42, sec. 20. Rev. Stat. 1838, ch. 8 (second act), sec. 11, p. 460. 2 Rev. Stat. 1852; Burns 4-322; Baldwin 1411.

⁷⁰ Acts 1816-17, ch. 4, sec. 31. Acts 1817-18 (general), ch. 32, sec. 6.

Record required by the State Board of Accounts. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

⁷¹ Rev. L. 1824, ch. 57, sec. 42. Acts 1825, ch. 69, secs. 1, 2. Acts 1827-28, ch. 88, sec. 3. Rev. Stat. 1843, ch. 57, secs. 14-16. Acts 1905; Burns 9-1034; Baldwin 2179. 1 Rev. Stat. 1852; Burns 13-1015, 13-1016; Baldwin 13457, 13458. 2 Rev. Stat. 1852; Burns 49-2807; Baldwin 5502.

⁷² Acts 1817-18 (general), ch. 32, secs. 6, 8. Rev. L. 1831, ch. 75, sec. 5. Rev. L. 1838, ch. 83, sec. 5. Acts 1909; Burns 13-1007; Baldwin 13459.

⁷³ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

⁷⁴ Acts 1871, ch. 17, secs. 17, 20. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

Quarterly and at the end of his term of office he reports to the auditor the amount of all fees collected during the time intervening since his last preceding report.⁷⁵

All of the records of the sheriff are in his office except as otherwise indicated in the entries.

SERVICE ON WRITS

192. SHERIFF'S DOCKET, 1869-. 14 vols.

Record of service of writs in civil causes, showing cause number; names of plaintiff, defendant, and attorneys; dates of writ, service, and return; kind of writ; and amount of fees. Arr. numer. by cause no. No index. Hdw. 300 pp. 18 x 12 x 3. 3 vols., 1869-June 20, 1889, bookroom 1; 11 vols., June 28, 1889-, sher. off.

193. SHERIFF'S STATE DOCKET, 1879-. 2 vols. (1, 2).

Record of service on writs in criminal causes, showing cause number; names of defendant, witnesses, and attorneys; kind of writ; dates of service and return; and amount of fees. Arr. numer. by cause no. No index. Hdw. 600 pp. 18 x 13 x 3.

194. [Civil Docket] RECORD, 1905-. 1 vol.

Record of service on miscellaneous writs, showing dates of writ, service, and return; name of person served; kind of writ; and amount of fees. Arr. chron. by date of writ. No index. Hdw. 200 pp. 18 x 12 x 1½.

195. [SUMMON FOR JURY], 1933-. 2 binders.

Original summonses served on jurors, showing cause number, names of court and jurors, dates of writ and return, and amount of fees. Arr. chron. by date of return. No index. Typed. 200 pp. 15 x 12 x 2.

196. SHERIFF'S DOCKET, 1869-74. 1 vol.

Record of service on writs in civil causes of common pleas court, showing information as in entry 190. Arr. numer. by cause no. No index. Hdw. 300 pp. 16 x 12 x 3. Bookroom 1.

EXECUTIONS ON JUDGMENTS

197. EXECUTION DOCKET, 1890-. 3 vols.

Record of services of writs for executions of judgments, showing dates of judgment, execution, and sheriff's return; names of plaintiff and defendant; amounts of judgment, interest, and costs; and cause number. Arr. numer. by cause

⁷⁵ Acts 1871, ch. 17, sec. 20. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

no. Indexed alph. by names of plaintiff and defendant. Hdw. 250 pp. 16 x 12 x 3. 2 vols., 1890-94, 1917-, sher. off.; 1 vol., 1895-1916, bookroom 1.

198. SHERIFF'S REAL ESTATE DOCKET, 1905-. 1 vol.

Record of sales of real estate by sheriff to satisfy judgments, showing cause number; names of plaintiff, defendant, and purchaser; dates of order and sale; and volume and page reference to order book, entry 134; and execution docket, entry 139. Arr. numer. by cause no. Indexed alph. by name of plaintiff. Hdw. 200 pp. 16 x 12 x 3.

199. SHERIFF'S CERTIFICATES OF SALE, 1850-. 18 f. b.

Contains:

- i. Original certificates of sale of property by sheriff to satisfy judgments, showing dates of sale, certificate, and judgment; names of plaintiff, defendant, and purchaser; location and description of property; and amount of judgment and sale. Arr. chron. by date of certificate.
- ii. Recognizance bonds, 1924-, showing cause number; dates of bond, approval, and filing; names of defendant and sureties; and amount and conditions of bond. Arr. chron. by date of bond.
- iii. Warrants issued for arrest of defendants or witnesses failing to appear on subpoena, 1930-, showing date, nature, and number of warrant; name of person processed; and sheriff's return. Arr. chron. by date of warrant.

No index. Hdw. and typed. 10 x 5 x 15.

JAIL RECORDS

200. JAIL REGISTER, 1864-Nov. 17, 1878, 1916-. 2 vols. Record of prisoners committed to jail, showing date and time of commitment; name, age, sex, color, residence, and place of birth of prisoner; nature of charge; length of sentence; amount of bail, fine, and fees; date and authority for release; and number and cost of meals. Arr. chron. by date of commitment. No index. Hdw. 300 pp. 18 x 12 x 2½. 1 vol., 1864-Nov. 17, 1878, bookroom 1; 1 vol., 1916-, jail off.

FEE AND CASH RECORDS

201. SHERIFF'S CASH BOOK, 1892-. 1 vol.

Record of cash collected and remittances to treasurer or

clerk, showing date, nature, and amount of receipt and payment; number and nature of cause; receipt number; and names of plaintiff, defendant, and payer; arr. chron. by date of collection. No index. Hdw. 500 pp. 17 x 15 x 3.

202. REGISTER OF FOREIGN FEES, 1905-. 2 vols.

Record of fees collected for serving foreign writs, showing cause number; kind of writ; dates of issue, service, and return; names of county, plaintiff, and defendant; and amounts of fees and costs. Arr. chron. by date of issue. No index. Hdw. 200 pp. 16 x 12 x 3.

203. MILEAGE RECORD, 1929-. 1 vol.

Record of sheriff's mileage, showing date of service, cause number, name of person served, number of miles traveled, and amount of fees. Arr. chron. by date of service. No index. Hdw. 350 pp. 14 x 10 x 2.

MISCELLANEOUS RECORDS

204. SHERIFF'S DOCKET COMMISSIONERS, 1915-. 1 vol.

Register of allowances by county commissioners for sheriff's expenses, showing date, nature, and amount of allowance. Arr. chron. by date of allowance. No index. Hdw. 300 pp. 16 x 12 x 1½.

205. [PROBATION PAPERS], 1931-. 1 f. b.

Record of persons on probation, showing name of person on probation, court, and probation officer; number and nature of cause; dates of probation and expiration; conditions of probation; and amounts of fine and costs. Arr. alph. by name of probationer. No index. Typed. 12 x 12 x 18.

206. LETTERS [Poultry Dealers Reports], May 6, 1933-. 1 f. b.

Poultry dealers' reports to sheriff of purchases of poultry, showing name of dealer, dates of purchase and report, name and address of seller, and description of poultry purchased. Arr. chron. by date of report. No index. Hdw. 12 x 3 x 16.

207. ACCIDENT REPORTS AND REPORT BLANKS, Apr. 15, 1933-. 1 f. d.

Duplicates of reports to State Department of Public Safety of accidents in county, showing date of report; date, time, and location of accident; description of vehicles involved; names and addresses of vehicle owners, persons involved, and witnesses; vehicle license numbers; diagram of accident; and name of person reporting accident. Arr. alph. by name of vehicle owner. No index. Hdw. 10 x 12 x 30. Jail off.

208. PERSONS WANTED, 1938-. 1 binder.

Identification cards of criminals wanted by United States Department of Justice, showing dates of card; name, photograph, criminal record, fingerprints, and description of criminal; and names and addresses of criminal's relatives. Arr. chron. by date of card. No index. Ptd. 150 pp. 12 x 10 x 4.

209. FINGERPRINTS, Apr. 18, 1932-. 1 f. d.

Card record of persons arrested by sheriff, showing name, age, sex, color, place of birth, complexion, weight, color of hair, address, description of identifying scars, and fingerprints of right and left hand of prisoner; date of arrest; and nature of charge. Arr. alph. by name of prisoner. No index. Typed. 10 x 12 x 30. Jail off.

210. FINGER PRINTS, 1936-. 1 f. b.

Record of case histories of criminals issued by the Federal Bureau of Investigation, showing name, fingerprints, criminal record, and prison number of criminal. Arr. alph. by name of criminal. No index. Typed. 12 x 3 x 16.

MAPS

211. MAP OF MARSHALL COUNTY, 1899. 1 map.

Political and communication map, showing date of map; and names and locations of cities, towns, cemeteries, schools, churches, townships, rivers, creeks, ditches, railroads, and roads. Drawn by Everly and Cresener. Published by Goes Lithe Co., Chicago, Ill. Ptd. Scale: 1" to 1 mi. 60 x 60.

XII. CORONER

LEGAL STATUS

The office of coroner has existed in Marshall County ever since 1836 under the requirements of the Constitution of 1816 and the Constitution of 1851. The coroner is elected for a 2-year term by the voters of the county, without restrictions on reelection.¹ He is commissioned by the Governor

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13; ch. 19, sec. 5. Rev. L. 1824, ch. 36, sec. 13, ch. 100, secs.

of Indiana² and holds office until his successor is elected and qualified.³ The coroner must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁴ must reside within the county after his election, and must not hold any other lucrative office.⁵ Before May 6, 1853 he could not practice law.⁶ He must post bond in an amount between \$1,000 and \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁷ The coroner must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁸

The coroner receives as compensation for himself for impaneling and swearing witnesses and making and returning inquisition for the viewing of each body, \$5 for the first day and \$2.50 for each additional day, plus a mileage allowance of 5 cents for each mile traveled in performing his

5, 6, 8. Rev. L. 1831, ch. 97, sec. 5. Rev. L. 1838, ch. 99 (first act), sec. 5. Rev. Stat. 1843, ch. 4, secs. 2, 10.

Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

Exemption of coroner from arrest. Acts 1817-18 (general), ch. 54, sec. 3. Rev. L. 1824, ch. 78, sec. 3.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 9, sec. 13; sec. 1. Acts 1817-18 (general), ch. 19, secs. 1, 6. Acts 1822-23, ch. 13, sec. 3. Rev. L. 1824, ch. 100, secs. 1, 2, 6. Rev. L. 1831, ch. 97, sec. 1. Rev. Stat. 1838, ch. 99 (first act), sec. 1. Rev. Stat. 1843, ch. 4, sec. 53. 2 Rev. Stat. 1852, ch. 7, sec. 1, p. 13. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1816, art. 4, sec. 25. Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5. Rev. Stat. 1838, ch. 4, sec. 10.

⁴ Const. 1851, art. 6, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

⁵ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, sec. 73.

⁶ Rev. L. 1824, ch. 8, sec. 6. Rev. Stat. 1838, ch. 8, sec. 6. Rev. Stat. 1843, ch. 38, sec. 101. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing previous laws). Jones v. Cavins, 4 Ind. 305 (1853).

⁷ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1817-18 (general), ch. 19, sec. 3. Acts 1821-22, ch. 46, secs. 1, 2. Rev. L. 1824, ch. 69, sec. 4; ch. 100, secs. 4, 8. Acts 1826-27, ch. 49, sec. 2. Rev. L. 1831, ch. 15, sec. 7; ch. 97, sec. 2. Rev. Stat. 1838, ch. 99 (first act), secs. 2, 8. Rev. Stat. 1843, ch. 4, sec. 101; ch. 38, sec. 81. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

⁸ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 19, sec. 4. Rev. L. 1824, ch. 100, sec. 4. Rev. L. 1831, ch. 97, secs. 4, 8. Rev. Stat. 1838, ch. 99 (first act), secs. 4, 8. Rev. Stat. 1843, ch. 4, sec. 77; ch. 38, sec. 81. Acts 1905; Burns 10-3703; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057,

duties. When he performs the duties required of the sheriff, the coroner receives the same compensation allowed to the sheriff. The coroner may employ a clerk, at a rate of pay not exceeding \$2 per day, to take down evidence of any inquisition,⁹ and may appoint deputies when needed.¹⁰

For sufficient legal grounds the coroner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹¹ If the coroner is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy in the office of coroner is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹³

There has been no major change in the office of coroner since the early days of the county, other than the abolition of the coroner's jury in 1879.¹⁴

FUNCTIONS AND RECORDS

The coroner is required to investigate deaths resulting from violence and other unnatural causes and inquire into the cause and manner of death.¹⁵ County and city health officers

⁹ Rev. Stat. 1838, ch. 40 (first act), secs. 1, 7, 11. 1 Rev. Stat. 1852, ch. 37, secs. 1, 4. Acts. 1871, ch. 17, sec. 13. Acts 1875 (Spec. Sess.); Burns 49-2917; Baldwin, 1935 suppl., 5452.

¹⁰ 1 Rev. Stat. 1852; Burns 49-501, 49-502; Baldwin 13108, 13109.

¹¹ 1 Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. L. 1824, ch. 29, sec. 34. Rev. L. 1831, ch. 26, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-832, 49-836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49 834; Baldwin 13050.

¹³ 1 Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, sec. 7. Acts 1817-18 (general), ch. 17, sec. 8; ch. 19, sec. 7. Rev. L. 1824, ch. 100, secs. 7, 8. Rev. L. 1831, ch. 97, secs. 6, 7. Rev. Stat. 1838, ch. 99 (first act), secs. 6, 7. Rev. Stat. 1843, ch. 4, secs. 155, 162, 163; ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409, Baldwin 13104, 13106, 13107. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁴ Acts 1816-17, ch. 10, sec. 15; ch. 32, sec. 9. Rev. L. 1824, ch. 100, secs. 15, 16, 21. Rev. L. 1831, ch. 97, secs. 15, 16. Rev. Stat. 1838, ch. 99 (1), secs. 1-23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 135; ch. 38, secs. 82-81; ch. 56, secs. 1-16. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1941 suppl., 49-2901a; Baldwin, 1935 suppl., 5439a. Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

¹⁵ Acts 1817-18 (general), ch. 20, sec. 2. Rev. L. 1824, ch. 100, sec. 15. Rev. L. 1831, ch. 97, secs. 15-18. Rev. Stat. 1838, ch. 99 (first act), sec. 15. Rev. Stat. 1843, ch. 56, sec. 1. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1941 suppl., 49-2901a; Baldwin 1935 suppl., 5439a.

must notify the coroner when they find any evidence that the death of a person was caused by violence or criminal practice or that a dead human body was buried or otherwise disposed of without a permit, and the coroner must hold an inquest concerning the death of the person mentioned in such report.¹⁶ He holds inquests without a jury,¹⁷ and may subpoena witnesses and employ a physician or surgeon for post-mortem examinations.¹⁸ If the finding of the inquisition determines that the death was caused by felony, the coroner must order the arrest of any person whom he may charge with such felony,¹⁹ and may require witnesses to give recognizances for their appearance at the trial of the accused. The evidence and verdict at the inquest are in writing, and are filed in the office of the clerk of the circuit court, together with all recognizances taken²⁰ and a written report giving a minute description of the deceased and valuables found with the body. If no person authorized to receive these valuables can be found after publication of notice, they are sold and the proceeds of sale are turned over to the county treasurer for the common school fund.²¹

The coroner acts in a nonjudicial capacity, and his findings are not binding upon any person.²² When the coroner is absent from the county or unable to attend an inquest,

¹⁶ Acts 1907, 1913; Burns 35-115; Baldwin 8398. Op. Atty. Gen. 1934, p. 33.

¹⁷ Acts 1817-18 (general), ch. 20, secs. 2-5. Rev. L. 1824, ch. 100, secs. 15-18. Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

¹⁸ Acts 1817-18 (general), ch. 20, secs. 6, 7. Rev. L. 1824, ch. 100, sec. 20. Rev. L. 1831, ch. 97, sec. 20. Rev. Stat. 1838, ch. 99 (first act), sec. 20. Rev. Stat. 1843, ch. 56, sec. 8. 2 Rev. Stat. 1852; Burns 49-2906; Baldwin 5440.

¹⁹ Acts 1817-18 (general), ch. 20, sec. 9. Rev. L. 1824, ch. 100, sec. 22. Rev. L. 1831, ch. 97, sec. 22. Rev. Stat. 1838, ch. 99 (first act), sec. 22. Rev. Stat. 1843, ch. 56, sec. 15. 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

²⁰ Acts 1817-18 (general), ch. 20, sec. 8. Rev. L. 1824, ch. 100 sec. 21. Rev. L. 1831, ch. 97, sec. 18. Rev. Stat. 1838, ch. 99 (first act), sec. 21. Rev. Stat. 1843, ch. 56, sec. 9. 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441. 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2908; Baldwin 5442.

²¹ Rev. Stat. 1838, ch. 99 (third act), sec. 1, p. 569. Rev. Stat. 1843, ch. 56, secs. 11, 13. 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.), 1913; Burns 49-2909, 49-2910, 49-2913; Baldwin 5443, 5444, 5447.

²² Const. 1816, art. 2; art. 4, sec. 25; art. 5, sec. 1. Const. 1851, art. 3, sec. 1; art. 6, sec. 2; art. 7, sec. 1. *Stults v. Board of County Comrs.*, 168 Ind. 539, 81 N. E. 471 (1907); *Peoria Cordage Co. v. Industrial Board of Illinois*, 284 Ill. 90, 119 N. E. 996 (1918); *Spiegel's House Furnishing Co. v. Industrial Board of Illinois*, 288 Ill. 422, 123 N. E. 606 (1919); *People of New York v. Coombs*, 158 N. Y. 532, 53 N. E. 527 (1899).

any justice of the peace of the county may hold the inquest.²³ Each death coming under the supervision of the coroner must be reported, on a blank form prescribed by the State Board of Health, within 3 days after holding the inquest, to the county or city health officer having jurisdiction.²⁴ The coroner makes a written report each month, to the State Department of Public Safety, showing deaths of persons in his jurisdiction, during the preceding month, resulting from the operation of motor vehicles.²⁵

He is a peace officer with the same powers as the sheriff.²⁶ The coroner acts as sheriff in event of the absence, personal interest, or incapacity of the sheriff, or vacancy in the sheriff's office.²⁷ All judicial writs against the sheriff are executed by the coroner. This duty includes the arrest and detention of the sheriff by the coroner.²⁸

The coroner is not required to keep any records permanently.²⁹

For coroner's records kept in Marshall County, see entries 124, 125.

XIII. PROSECUTING ATTORNEY

LEGAL STATUS

The office of prosecuting attorney was created by an act of 1831; was reestablished by acts of 1838, 1843, 1847, and the Constitution of 1851; and has existed in Marshall

²³ Acts 1817-18 (general), ch. 20, sec. 10. Rev. L. 1824, ch. 100, sec. 23. Rev. L. 1831, ch. 97, sec. 23. Rev. Stat. 1838, ch. 99 (first act), sec. 23. Rev. Stat. 1843, ch. 56, sec. 16. 2 Rev. Stat. 1852; Burns 49-2915; Baldwin 5449.

²⁴ Acts 1907, 1913; Burns 35-115; Baldwin 8368.

²⁵ Acts 1939; Burns, 1941 suppl., 47-1915, 47-1919; Baldwin, 1939 suppl., 11189-54, 11189-58.

²⁶ Acts 1817-18 (general), ch. 19, sec. 9; ch. 20, sec. 1. Acts 1820-21, ch. 13, sec. 2. Rev. L. 1824, ch. 100, sec. 9. Acts 1829-30, ch. 46, sec. 16. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 82. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

²⁷ Acts 1816-17, ch. 13, sec. 9. Acts 1817-18 (general), ch. 19, sec. 9. Rev. L. 1824, ch. 37, sec. 2; ch. 100, sec. 9. Rev. L. 1831, ch. 97, sec. 9. Rev. Stat. 1838, ch. 99 (first act), sec. 9. Rev. Stat. 1843, ch. 38, sec. 83. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

²⁸ Acts 1819-20, ch. 46, sec. 2. Rev. Stat. 1813, ch. 56, sec. 84. 2 Rev. Stat. 1852; Burns 49-2903; Baldwin 5438.

²⁹ Board of County Comrs. v. Gillum, 92 Ind. 511 (1884). Information obtained from E. P. Brennan, State Examiner, on August 30, 1939, by W. Davis Hamilton.

County since 1836. The prosecuting attorney is elected by the voters of the judicial circuit for a 2-year term without restrictions on reelection.¹ Marshall County alone constitutes the seventy-second judicial circuit.²

He is commissioned by the Governor of Indiana³ and holds office until his successor is elected and qualified.⁴ He must be an elector of the judicial circuit at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the judicial circuit after his election, and must not hold any other lucrative office.⁶ An act of 1843, which was repealed by an act of 1852, provided: "No person shall be elected to the office of prosecuting attorney who shall not have a license to practice law in the circuit courts of this State."⁷

He must post bond in the amount of \$5,000 (to be approved by the circuit judge and filed with the clerk of the circuit court),⁸ and take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹

The prosecuting attorney of Marshall County receives a regular salary of \$1,950 per year payable out of the county treasury.¹⁰ He is entitled to reimbursement for certain

¹ Const. 1851, art. 7, sec. 11. Acts 1851-52, ch. 8, sec. 1. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Robinson v. Moser, 203 Ind. 66, 179 N. E. 270 (1931). See footnotes 20, 21 herein.

² Acts 1927, ch. 12, sec. 1.

From the organization of Marshall County in 1836 until May 16, 1927 the county belonged to judicial circuits composed of more than one county. See the essay entitled "Circuit Court."

³ Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 73, secs. 1, 2. 2 Rev. Stat. 1852, ch. 3, sec. 6, p. 386. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁴ Const. 1851, art. 15, sec. 3. Rev. Stat. 1843, ch. 73, sec. 1.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. State ex rel. Howard v. Johnston, 101 Ind. 223 (1885).

⁷ Rev. Stat. 1843, ch. 73, sec. 5 (repealed by 1 Rev. Stat. 1852, ch. 92).

⁸ Rev. L. 1824, ch. 24, sec. 11. Rev. L. 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 58, sec. 4; ch. 4, secs. 86-100. Acts 1851-52, ch. 8, sec. 2. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

⁹ Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Rev. L. 1824, ch. 24, sec. 11. Rev. L. 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 77, 78, 83, 84, 92; ch. 58, sec. 3. 2 Rev. Stat. 1852, ch. 3, sec. 6, p. 386. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Acts 1810, ch. 10, sec. 5. Acts 1813-14, ch. 12, secs. 1, 2. Acts 1814, ch. 3, sec. 5. Rev. L. 1824, ch. 24, sec. 12. Acts 1825, ch. 17, sec. 8. Acts 1825-26, ch. 44, sec. 1. Rev. L. 1831, ch. 10,

traveling expenses.¹¹ He is not permitted to retain, as compensation for himself, any fees collected by him.¹²

The prosecuting attorney may engage in the private practice of law, except as to matters which might conflict with his official duties.¹³

If the prosecuting attorney is convicted of corruption or other high crime, he may be removed from office by the Supreme Court. This is the only method by which he may be removed from office.¹⁴

Any vacancy in the office of prosecuting attorney is filled through appointment by the Governor. The appointee must take oath and post bond as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁵

The prosecuting attorney may appoint such deputies as may be necessary. Their salaries are paid on warrants drawn by the auditor after an appropriation therefor by the county council and allowance of a claim therefor by the board of commissioners.¹⁶ The deputies must take the oath required

sec. 5. Rev. Stat. 1838, ch. 9 (first act), sec. 5. Rev. Stat. 1843, ch. 13, sec. 5. Acts 1858 (Spec. Sess.), ch. 12, sec. 2. Acts 1859, ch. 114, sec. 1. Acts 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2652, 49-2695; Baldwin 7549, 7550. Op. Atty. Gen. 1937, p. 636; 1938, p. 234.

¹¹ Acts 1913; Burns 49-2512; Baldwin 2267. Acts 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

¹² Acts 1933; Burns 49-2601, 49-2695; Baldwin 7547, 7550. See footnote 68 herein.

¹³ Acts 1905; Burns 10-3102; Baldwin 2636. Acts 1917; Burns 10-3103, 10-3104; Baldwin 2637, 2638.

Liquor licenses. Acts 1901, 1913; Burns 49-2513; Baldwin 5467.

¹⁴ Const. 1851, art. 7, sec. 12. Acts 1816-17, ch. 10, sec. 15. Acts 1897; Burns 49-819; Baldwin 13152. State ex rel. Gibson v. Friedley, 135 Ind. 119, 34 N. E. 872 (1893); State v. Patterson, 181 Ind. 660, 105 N. E. 228 (1914); State v. Redman, 183 Ind. 332, 109 N. E. 184 (1915); State ex rel. Williams v. Ellis, 184 Ind. 307, 112 N. E. 98 (1916); State v. Dearth, 201 Ind. 1, 164 N. E. 489 (1929); State ex rel. Youngblood v. Warrick Circuit Court, 208 Ind. 594, 196 N. E. 254 (1935); State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 29, 1939, by W. Davis Hamilton.

¹⁵ Const. 1851, art. 5, sec. 18; art. 6, sec. 9. Acts 1825-26, ch. 44, sec. 3. Rev. L. 1831, ch. 10, sec. 4. Rev. Stat. 1838, ch. 9 (first act), sec. 4. Rev. Stat. 1843, ch. 58, sec. 6; ch. 73, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State ex rel. Custer v. Schortemeier, 137 Ind. 507, 151 N. E. 407 (1929). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2602, 49-2695; Baldwin 7548, 17550.

of the prosecuting attorney, may perform all his official duties, and are subject to the same regulations and penalties.¹⁷ The prosecuting attorney may remove such deputies at any time and is responsible for their official acts.¹⁸ Whenever the prosecuting attorney is disqualified or fails to attend court the judge must appoint some person to act in his place.¹⁹

From the organization of Marshall County in 1836²⁰ until 1843 a prosecuting attorney for the judicial circuit was appointed for a 2-year term by joint ballot of the Senate and House of Representatives. From 1843 until 1847 he was elected for a 2-year term by the voters of the judicial circuit. From 1847 until 1851 his term was 3 years. Since 1851 his term has been 2 years.²¹

FUNCTIONS AND RECORDS

The prosecuting attorney is a judicial officer.²² He acts as attorney for the State in criminal cases under the State laws and as attorney for the State and county in certain civil cases.²³

¹⁷ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. *Stout v. State*, 93 Ind. 150 (1884).

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. *Acts* 1933; Burns 49-2602; Baldwin 7548.

¹⁹ Rev. L. 1824, ch. 24, sec. 12. *Acts* 1825, ch. 17, sec. 8. *Acts* 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Rev. Stat. 1843, ch. 58, sec. 8. *Acts* 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State*, 197 Ind. 401, 141 N. E. 52 (1926); *State ex rel. Williams v. Ellis*, 184 Ind. 307, 112 N. E. 98 (1916); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

²⁰ Marshall Organization Acts. *Acts* 1834-35 (general), ch. 25, sec. 9. *Acts* 1835-36 (general), ch. 17, sec. 1.

²¹ Const. 1816, art. 12, secs. 3, 4. Const. 1851, art. 7, sec. 11. *Acts* 1810, ch. 10, sec. 5. *Acts* 1813-14, ch. 12, secs. 1-5; ch. 29, secs. 1, 2. *Acts* 1814, ch. 2, secs. 1, 2; ch. 3, secs. 4, 5. *Acts* 1816-17, ch. 3, sec. 2; ch. 26, sec. 1. Rev. L. 1824, ch. 24, secs. 9, 10. *Acts* 1825-26, ch. 44, sec. 1, *Acts* 1826-27, ch. 17, sec. 1. Rev. L. 1831, ch. 10, sec. 1. Rev. Stat. 1832, ch. 9 (first act), sec. 1. *Acts* 1842-43 (general), ch. 15, sec. 1. Rev. Stat. 1843, ch. 4, sec. 28; ch. 58, sec. 1; ch. 59, sec. 21; ch. 73, sec. 1. *Acts* 1846-47 (general), ch. 13, sec. 1. *Acts* 1850-51 (general), ch. 132, secs. 1-3. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456.

²² *State ex rel. Freed v. Martin Circuit Court*, 214 Ind. 152, 14 N. E. (2d) 910 (1938); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

²³ *Ibid.* *Acts* 1817-18 (general), ch. 4, sec. 2; ch. 48, sec. 4. Rev. L. 1824, ch. 24, sec. 10. *Acts* 1825-26, ch. 44, sec. 2. *Acts* 1829-30, ch. 9, sec. 4. Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 13, sec. 233; ch. 37, sec. 101; ch. 73, sec. 4. *Acts* 1851-52, ch. 8, secs. 1, 3, 4. *Acts* 1933; Burns 2-229, 49-2695; Baldwin 44, 7550. *Acts* 1905; Burns 4-2409; Baldwin 11595. *Acts* 1929; Burns, 1941 suppl., 4-3802; Baldwin, 1939 suppl., 2008-2.

Investigations of alleged violations of criminal laws are conducted by the prosecuting attorney,²⁴ the sheriff,²⁵ or the coroner,²⁶ cooperating with one another and with State and Federal bureaus of law enforcement;²⁷ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.²⁸

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.²⁹ When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill," and signs his name thereunder. The indictment is also signed by the prosecuting attorney.³⁰ The finding of an indictment must be kept secret until arrest is made.³¹ He cannot be held liable for causing the grand jury to return an indictment, though he

2 Rev. Stat. 1852; Burns 49-2501, 49-2503, 49-2504; Baldwin 5456, 5459, 5460. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

Misconduct of prosecuting attorney at trial. *De Hority v. State*, 215 Ind. 390, 19 N. E. (2d) 945 (1939).

²⁴ Acts 1822-23, ch. 48, sec. 9. Acts 1905; Burns 9-706; Baldwin 2076. 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

"Inquisitorial powers are vested in the office of the prosecutor and in grand juries, and not in judges and courts." *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

²⁵ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁶ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1941 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

²⁷ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

²⁸ Rev. Stat. 1843, ch. 5, secs. 162, 164. Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

²⁹ Acts 1905; Burns 9-826; Baldwin 2122. *Williams v. State*, 188 Ind. 263, 123 N. E. 209 (1919).

³⁰ Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State*, 214 Ind. 328, 14 N. E. (2d) 590 (1938).

Endorsement by prosecuting attorney. 2 Rev. Stat. 1852, ch. 1, sec. 17, p. 363 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). *Taylor v. State*, 113 Ind. 471, 16 N. E. 183 (1888); *Robinson v. State*, 177 Ind. 263, 97 N. E. 929 (1912); *Hamer v. State*, 200 Ind. 403, 163 N. E. 91 (1928).

The statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State*, 213 Ind. 560, 12 N. E. (2d) 270 (1938).

³¹ 2 Rev. Stat. 1852, ch. 1, sec. 71, p. 370 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 46, sec. 103. Acts 1905; Burns 9-907; Baldwin 2130.

acted maliciously and without probable cause.³²

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.³³ He may also prosecute on affidavit all criminal offenses under the State laws, other than treason and murder (which must be prosecuted on indictment).³⁴

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all civil actions and proceedings in which the county may be interested or involved,³⁵ including suits to collect taxes and tax penalties³⁶ and

³² Griffith v. Slinkard, 146 Ind. 117, 44 N. E. 1001 (1896).

³³ Rev. L. 1824, ch. 24, sec. 10. Acts 1825, ch. 17, sec. 7. Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

³⁴ Rev. Stat. 1843, ch. 58, sec. 2. 2 Rev. Stat. 1852, ch. 1, sec. 749, p. 198 (repealed by Acts 1865 (Spec. Sess.), ch. 57, sec. 1); ch. 1, secs. 19, 23, p. 363 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1939; Burns, 1941 suppl., 4-3802; Baldwin, 1939 suppl., 2008-2. Acts 1905, 1927; Burns 9-908; Baldwin 2131.

Endorsement by prosecuting attorney. Robinson v. State, 177 Ind. 263, 97 N. E. 929 (1912); McSwane v. State, 200 Ind. 548, 165 N. E. 319 (1929).

A court cannot compel the prosecuting attorney to approve the affidavit. State ex rel. Freed v. Martin Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938).

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the Legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." *Ibid.*

"In him is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. If he fails to exercise his official discretion honestly and impartially, the remedy is by impeachment." State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

³⁵ Acts 1816-17 (general), ch. 32, sec. 9; ch. 72, sec. 5. Rev. L. 1824, ch. 24, sec. 10. Acts 1825, ch. 47, sec. 25; ch. 69, sec. 2. Rev. L. 1831, ch. 6, sec. 27; ch. 10, sec. 2; ch. 90, secs. 21, 27. Rev. Stat. 1838, ch. 9 (first act), sec. 2. Rev. Stat. 1843, ch. 13, sec. 233; ch. 14, sec. 35; ch. 15, sec. 128; ch. 48, sec. 84; ch. 58, sec. 2, Acts 1851-52, ch. 8, sec. 4. Acts 1865; Burns 28-312; Baldwin 5897. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. Board of County Commissioners v. Templer, 34 Ind. 322 (1870).

³⁶ Rev. L. 1824, ch. 86, secs. 23, 43. Acts 1825, ch. 47, sec. 25. Acts 1829, ch. 47, sec. 25. Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1883, ch. 100, sec. 1. Acts 1927, ch. 176, sec. 4 (repealed by Acts 1937, ch. 132, sec. 16). Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1935, 1937; Burns, 1941 suppl., 12-912; Baldwin, 1937 suppl., 3764-41. Acts 1937; Burns, 1941 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-723; 64-1319, 64-1518, 64-1519, 64-2208, 64-2505; Baldwin 15576, 15633, 15637, 15723, 15772, 15773, 15815, 15854. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933;

suits against officers or on their bonds.³⁷

The prosecuting attorney prosecutes suits on forfeited recognizances,³⁸ suits to recover funds of certain decedents' estates unlawfully retained by an administrator,³⁹ suits against insurance companies,⁴⁰ surety companies,⁴¹ and railroad companies to recover statutory penalties,⁴² suits to recover gambling losses,⁴³ injunction suits to prevent violation of laws concerning horse racing,⁴⁴ tenement houses,⁴⁵ houses of ill fame,⁴⁶ and restraint of trade,⁴⁷ and injunction suits to prevent persons from engaging in trades and professions without licenses⁴⁸ or from engaging in business while delinquent in payment of gross income taxes.⁴⁹

Burns 64-921; Baldwin 15919. Acts 1933, 1937; Burns, 1941 suppl., 64-2627, 64-2628; Baldwin, 1937 suppl., 16007, 16009. Board of County Comrs. v. Templer, 34 Ind. 322 (1870); La Plante v. State ex rel. Goodman, 152 Ind. 80, 52 N. E. 452 (1899).

³⁷ Acts 1813, ch. 8, sec. 24. Acts 1816-17, ch. 8, sec. 22; ch. 17, sec. 13; ch. 19, secs. 14, 15. Acts 1817-18 (general), ch. 42, secs. 19-22; ch. 43, sec. 21; ch. 44, sec. 13. Acts 1818-19, ch. 8, sec. 2. Acts 1819-20, ch. 46, secs. 1, 2. Rev. L. 1824, ch. 22, sec. 6; ch. 23, sec. 8; ch. 24, secs. 9, 10; ch. 30, secs. 1-3; ch. 56, sec. 4; ch. 86, secs. 21, 23. Acts 1825, ch. 21, sec. 4; ch. 68, sec. 2. Acts 1827-28, ch. 23, sec. 3; ch. 88, sec. 6. Rev. L. 1831, ch. 10, sec. 2; ch. 81, sec. 46; ch. 90, sec. 6. Acts 1834-35 (general), ch. 18. Rev. Stat. 1838, ch. 9 (first act), sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. 1 Rev. Stat. 1852; Burns 44-204; Baldwin 5635. Acts 1883; Burns 49-142; Baldwin 13094. Acts 1895; Burns 49-1408; Baldwin 7583. Acts 1917; Burns 60-227; Baldwin 13878. Acts 1919; Burns 64-2507, 64-2508; Baldwin 15856, 15857. Wood v. State ex rel. Canady, 125 Ind. 219, 25 N. E. 190 (1890); Wood v. Board of County Comrs., 125 Ind. 270, 25 N. E. 188 (1890).

³⁸ Acts 1816-17, ch. 5, sec. 1. Acts 1817-18 (general), ch. 4, sec. 1. Rev. L. 1824, ch. 57, sec. 1. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. State v. Schloss, 92 Ind. 293 (1883).

³⁹ Acts 1881 (Spec. Sess.); Burns 6-1605; Baldwin 3237.

⁴⁰ Acts 1899; Burns 39-222; Baldwin 9710. Acts 1933; Burns 39-1117; Baldwin 9823. Acts 1893; Burns 39-2618; Baldwin 9888.

⁴¹ Acts 1929; Burns 25-253; Baldwin 4957. Acts 1901; Burns 25-1218; Baldwin 9918.

⁴² Acts 1873; Burns 49-1918; Baldwin 15094. Acts 1895; Burns 55-620; Baldwin 14119. Acts 1911; Burns 55-913; Baldwin 14159. Acts 1907; Burns 55-924; Baldwin 14153.

⁴³ 1 Rev. Stat. 1852; Burns 10-2323; Baldwin 2806. Ervin v. State ex rel. Walley, 150 Ind. 332, 48 N. E. 249 (1897).

⁴⁴ Acts 1895; Burns 10-2711; Baldwin 9273.

⁴⁵ Acts 1913; Burns 20-579; Baldwin 9383.

⁴⁶ Acts 1915; Burns 9-2702; Baldwin 2586.

⁴⁷ Acts 1907; Burns 23-120; Baldwin 4786.

⁴⁸ Dentists. Acts 1913; Burns 63-513; Baldwin 5598.

Physicians and surgeons. Acts 1897; Burns 63-1311; Baldwin 10712.

⁴⁹ Acts 1933, 1937; Burns, 1941 suppl., 64-2613(c); Baldwin, 1937 suppl., 15992(c).

He acts for the State when a surety on a forfeited recognizance sues the principal on the theory of subrogation of the rights of the State.⁵⁰ He prosecutes bastardy proceedings,⁵¹ quo warranto proceedings,⁵² and cases of surety of the peace.⁵³ He resists undefended divorce suits⁵⁴ and applications for change of names of persons; and protects the interests of all persons of unsound mind.⁵⁵ In lunacy proceedings he represents the person alleged to be insane.⁵⁶ He must be present at the hearing of proceedings to commit any person to a hospital operated by the trustees of Indiana University.⁵⁷ He appears in guardianship proceedings for aged persons, spendthrifts,⁵⁸ and habitual drunkards.⁵⁹ Formerly he represented apprenticed minors in suits concerning breach of the terms of their indentures⁶⁰ and prosecuted suits to recover the costs of cutting hedge fences when the work was done at county expense.⁶¹

On appeals from certain examination boards in license matters he represents the boards.⁶² On appeals from orders

⁵⁰ Acts 1905; Burns 9-1045; Baldwin 2173.

⁵¹ 2 Rev. Stat. 1852; Burns 3-622; Baldwin 867.

⁵² Acts 1819-20, ch. 74, sec. 3. Rev. L. 1831, ch. 62, sec. 3. Rev. Stat. 1843, ch. 48, secs. 46, 58. 2 Rev. Stat. 1852, ch. 1, secs. 749, 750, pp. 198, 199. Acts 1881 (Spec. Sess.), 1929; Burns 3-2001, 3-2002; Baldwin 1045, 1046. 1 Rev. Stat. 1852; Burns 39-134; Baldwin 9611. Acts 1897; Burns 49-821 to 49-823, 49-831; Baldwin 13154 to 13156, 13164.

⁵³ Acts 1905; Burns 9-511; Baldwin 2059. Davis v. State, 38 Ind. 11, 37 N. E. 397 (1894).

⁵⁴ Acts 1817-18 (general), ch. 35, sec. 3. Rev. L. 1831, ch. 31, sec. 9. Rev. Stat. 1838, ch. 31, sec. 8. Rev. Stat. 1843, ch. 35, sec. 69. Acts 1873, 1913; Burns 3-1212 to 3-1215; Baldwin 916 to 919. State v. Brinneman, 120 Ind. 357, 22 N. E. 332 (1889); Scott v. Scott, 17 Ind. 309 (1861).

⁵⁵ Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. Martin v. Matsinger, 130 Ind. 555, 30 N. E. 523 (1891).

⁵⁶ 2 Rev. Stat. 1852, Acts 1895; Burns 8-202; Baldwin 3460. Chase v. Chase, 163 Ind. 178, 71 N. E. 485 (1904). Martin v. Matsinger, 130 Ind. 555, 30 N. E. 523 (1891).

⁵⁷ Acts 1939; Burns, 1941 suppl., 28-5416, 28-5417; Baldwin, 1939 suppl., 14078-89b, 14078-89c.

⁵⁸ Acts 1911; Burns 8-301; Baldwin 2472. Acts 1919; Burns 8-302; Baldwin 3473.

⁵⁹ Acts 1867; Burns 8-401; Baldwin 3476.

⁶⁰ Acts 1827-28, ch. 46, sec. 2. Rev. L. 1831, ch. 69, sec. 7. These laws were repealed by Rev. Stat. 1843, ch. 35; ch. 59, sec. 4.

⁶¹ Acts 1891, ch. 39, sec. 3. Acts 1895, ch. 33, sec. 3. This duty was abolished by Acts 1921, ch. 244, sec. 2.

⁶² State Board of Medical Registration and Examination. Acts 1897, 1899, 1901; Burns 63-1306; Baldwin 10707.

State Board of Dental Examiners. Acts 1913; Burns 63-520; Baldwin 5605.

Indiana Board of Pharmacy. Acts 1911; Burns 63-1120; Baldwin 13292.

of the chief inspector of the State Industrial Board, the prosecuting attorney appears as counsel for the State to sustain and defend such orders.⁶³ He assists the Indiana Attorney General, on his request, in representing the Indiana Public Service Commission in any suit to which that commission is a party, if any hearing or trial of such suit will be held in the county.⁶⁴

The Attorney General of Indiana holds conferences with all prosecuting attorneys concerning the enforcement of the State laws.⁶⁵

The prosecuting attorney administers oaths⁶⁶ and performs the duties of notaries public.⁶⁷ He collects docket fees for his services in criminal prosecutions, divorce cases, suits on forfeited recognizances, and other suits which he is required to prosecute or defend, and pays such fees over to the county treasurer. He makes monthly reports to the board of commissioners concerning his activities and the amount of fees collected by him and turned over to the treasurer.⁶⁸

The State Board of Accounts has prescribed forms for an appearance record, fee book, and cashbook, to be kept by the prosecuting attorney, and a monthly report to be made by him.⁶⁹

State Veterinary Examining Board. Acts 1905; Burns 63-1705; Baldwin 3946.

State Board of Barber Examiners. Acts 1933; Burns 61-315; Baldwin 4070.

Miners' examination board. Acts 1923; Burns 46-1008; Baldwin 11073.

⁶³ Acts 1889; Burns 40-1019; Baldwin 10084.

⁶⁴ Acts 1913; Burns 54-106; Baldwin 13909. Acts 1917; Burns 60-228; Baldwin 13879.

⁶⁵ Acts 1931, 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

⁶⁶ Acts 1901; Burns 49-2506; Baldwin 5462. *Lenciana v. State*, 200 Ind. 528, 164 N. E.

271 (1926).

⁶⁷ Acts 1919; Burns 49-2507 to 49-2510; Baldwin 5463 to 5466.

⁶⁸ Rev. L. 1824, ch. 24, sec. 13; ch. 86, secs. 22, 24. Acts 1825-26, ch. 44, sec. 4. Rev. L. 1831, ch. 90, sec. 27. Acts 1861 (Spec. Sess.), ch. 25, sec. 4; ch. 28, sec. 1. Acts 1871, ch. 17, sec. 5. Acts 1873, ch. 48, sec. 16. Acts 1931; Burns 6-2436; Baldwin 15974. Acts 1905; Burns 9-706; Baldwin 2076. Acts 1929; Burns 25-253; Baldwin 4957. Acts 1919; Burns 49-2505, 64-608, 64-719, 64-723, 61-1519, 61-2508; Baldwin 5461, 15576, 15673, 15637, 15773, 15857. Acts 1875 (Spec. Sess.); Burns 49-2511; Baldwin 5468. Acts 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2695; Baldwin 7550. Acts 1917; Burns 60-227; Baldwin 13878. *Op. Atty. Gen.* 1938, p. 238.

⁶⁹ Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

All of the records of the prosecuting attorney are in his office, State Bank Building, Plymouth.

212. PROSECUTING ATTORNEY'S APPEARANCE RECORD, 1936-.
1 vol.

Record of causes prosecuted, showing cause number, date of appearance, names of defendant and court, nature of action, and amount of fees assessed. Arr. chron. by date of appearance. No index. Hdw. 150 pp. 16 x 12 x 2.

213. CASH BOOK, 1936-. 1 vol.

Record of fees collected and remittances to treasurer, showing cause number, title of cause, date of trial, date and amount of collection, and date of remittance. Arr. chron. by date of collection. No index. Hdw. 125 pp. 16 x 12 x 1.

XIV. DISTRICT ATTORNEY (1853-73)

LEGAL STATUS

From 1853 until 1873 Marshall County had a district attorney¹ who was elected biennially by the voters of the judicial district of the court of common pleas.² The district was composed of the counties of Marshall, St. Joseph, and Starke from 1853 until March 1, 1859, and the counties of Elkhart, La Porte, Marshall, and St. Joseph after March 1, 1859.³ He was required to post bond in the amount of \$5,000, to be approved by the judge of the court of common pleas and filed in the office of the clerk of the circuit court.⁴

FUNCTIONS AND RECORDS

The duties of the district attorney were similar to those of the prosecuting attorney, except that they extended only to the court of common pleas and the justice of the peace courts in the counties forming the judicial district of the court of common pleas. He prosecuted the pleas of the State in the court of common pleas and justice of the peace courts of such districts;⁵ conducted all prosecutions

¹ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. Acts 1873, ch. 29, sec. 79.

² Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. 2 Rev. Stat. 1852, ch. 3, sec. 1, p. 385.

³ 2 Rev. Stat. 1852, ch. 8, sec. 3, p. 16. Acts 1859, ch. 51, sec. 1. Acts 1861, ch. 28, sec. 1.

⁴ Acts 1851-52 (Spec. Sess.); ch. 8, sec. 2. 2 Rev. Stat. 1852, ch. 3, sec. 2, p. 385.

⁵ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. 2 Rev. Stat. 1852, ch. 3, sec. 1, p. 385. State v. Sweetser, 14 Ind. 292 (1860).

for felonies or misdemeanors; conducted all suits on forfeited recognizances; resisted applications for changing names; superintended civil suits in which the county or its trust funds were interested or involved; and protected the interest of all persons of unsound mind.⁶

The office of district attorney was abolished in 1873 when the court of common pleas was abolished.⁷

No records of the district attorney were found in Marshall County.

XV. COUNTY ASSESSOR

LEGAL STATUS

The office of county assessor has existed in Marshall County ever since 1891 under the requirements of acts of 1891 and 1919. The assessor is elected for a 4-year term by the voters of the county, and holds office until his successor has been elected and qualified. He receives a certificate of election from the clerk of the circuit court and is not commissioned by the Governor. The assessor must be an elector of the county at the time of his election, must have been a resident freeholder thereof during the preceding 4 years, must reside within the county after his election, and must not hold any other lucrative office. He must post bond in the amount of \$5,000, to be approved by and filed with the auditor.¹ The assessor must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.²

The assessor receives a regular salary of \$1,200 per year, plus \$2.50 for each day spent in conference with the State Board of Tax Commissioners, together with actual railroad fare to and from the place of holding such conferences.³ For his services as appraiser of decedent's estates, the circuit court allows him compensation between \$1 and \$50

⁶ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 4. 2 Rev. Stat. 1852, ch. 3, sec. 4, p. 386.

⁷ Acts 1873, ch. 29, sec. 79.

¹ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6; art. 15, secs. 3, 6. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

² Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 19, sec. 1. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

³ Acts 1817-18 (general), ch. 42, sec. 23. Acts 1933; Burns 49-1004, 49-1011; Baldwin 7534, 7541. Acts 1919; Burns 64-1103; Baldwin 15698.

for each estate appraised, based on the value thereof.⁴ He is entitled to reimbursement for expenses when temporarily working outside Marshall County under direction of the board of commissioners.⁵ He is not permitted to retain, as compensation for himself, any fees collected by him, other than as stated above.⁶

For sufficient legal grounds the assessor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁷ If the assessor is convicted of a felony the judgment of conviction must declare his office vacant.⁸ For incompetency, neglect of duty, or misconduct in office, the assessor may be removed from office by the State Board of Tax Commissioners after a hearing by that board. On appeal to the circuit court he may have a trial de novo on the charges sustained by the State board.⁹

Any vacancy in the office of assessor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an assessor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁰

Subject to the approval of the board of commissioners, the assessor may appoint one or more deputies to serve no more than 30 days in any calendar year. Each deputy receives \$4 per day as compensation. They have the same qualifications, powers, and duties as the assessor, are subject to his control and direction, and must take the oath of office

⁴ Acts 1931, 1933, 1939; Burns, 1941 suppl., 6-2408; Baldwin, 1939 suppl., 15946.

⁵ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁶ Acts 1933; Burns 49-1005; Baldwin 7535.

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

¹⁰ Const. 1851, art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13166, 13107. Acts 1919, 1921; Burns 64-1101; Baldwin 15696. *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1866). Op. Atty. Gen. 1936, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

required of the assessor.¹¹ With the approval of the board of commissioners, the assessor may also employ clerical assistants who shall each receive compensation not exceeding \$5 per day, pursuant to appropriation by the county council.¹²

From the organization of Marshall County in 1836¹³ until 1841, assessors (often called listers) were appointed annually by the board doing county business, to list all property subject to taxation and to determine the value thereof (where the tax was based on value).¹⁴ Under acts of 1824 and 1831 any person refusing to accept his appointment as assessor was subject to a penalty of \$25.¹⁵ An act of February 10, 1841 provided for the election of a county assessor in each county for a 2-year term.¹⁶ The office of county assessor was abolished in 1852, and the duties thereof were transferred to township assessors elected for 2-year terms.¹⁷ From 1841 to 1872 real property was valued by appraisers appointed, from time to time as needed, by the board of commissioners.¹⁸ The elective office of county assessor (2-year term) replaced that of appraiser in 1872;¹⁹ but in 1875 the office was abolished, and the duties were transferred to township assessors elected for 2-year terms.²⁰ An act of March 6, 1891 reestablished the office of county assessor. Under this law the assessor was elected for a 4-year term, and was not eligible for reelection until 4 years after the expiration of the term for which he was elected. He was required to be a resident freeholder and householder of the county not less than 5 years before the date of his election.²¹ The act of 1891 was superseded by the act of 1919 mentioned in the first paragraph herein.

¹¹ 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919; Burns 64-1102; Baldwin 15698.

¹² Acts 1933; Burns 49-1011; Baldwin 7541.

¹³ Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

¹⁴ Acts 1807, ch. 51, sec. 11; ch. 92, sec. 1. Acts 1811, ch. 35, secs. 1, 17. Acts 1813-14, ch. 32, secs. 1-3. Acts 1816-17, ch. 19, secs. 1-6, 8, 16. Acts 1817-18 (special), ch. 36, sec. 3. Acts 1817-18 (general), ch. 42, sec. 1. Rev. L. 1824, ch. 15, sec. 7; ch. 86, secs. 5-7. Rev. L. 1831, ch. 81, secs. 3-5. Rev. Stat. 1838, ch. 21, sec. 12.

¹⁵ Rev. L. 1824, ch. 86, sec. 29. Rev. L. 1831, ch. 81, sec. 4.

¹⁶ Acts 1840-41 (general), ch. 3, sec. 1.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 64; ch. 92, sec. 1.

¹⁸ Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

²⁰ Acts 1875, ch. 97, secs. 2, 7, 9.

²¹ Acts 1891, ch. 99, sec. 112.

In 1933 the office of township assessor was abolished in each township having a population not exceeding 5,000 (all townships except Center), and the duties of the office were transferred to the township trustee.²² Reference hereinafter to township assessors includes township trustees performing the duties prescribed by statutes for township assessors.

FUNCTIONS AND RECORDS

The duties of the county assessor are to examine tax duplicates and other records and papers in the office of the auditor, treasurer, recorder, clerk, sheriff, and surveyor, together with the returns of the township assessors; to discover, list, and assess (after notice to the owner) all omitted property of every kind, entering his valuations in a separate column on the township assessors' books; to receive lists of registrations of motor vehicles and trailers from the State Motor Vehicle Commissioner, and to check, verify, and ascertain that all motor vehicles and trailers owned by the listed registrants residing in the county are on the assessment lists of the county; to advise and instruct the township assessors; to report to the State Board of Tax Commissioners any incompetency or neglect of duty on the part of township assessors;²³ and determine the value of taxable intangibles.²⁴ Under appointments by the circuit court, he serves as appraiser of estates in the administration of the inheritance tax law.²⁵ He appraises school property in accordance with laws concerning transfer of pupils from one school to another.²⁶ He is a member and president of the county board of review.²⁷ His work is under the direction of the State Board of Tax Commissioners.²⁸ Formerly the county assessor made out the assessment rolls (now made by

²² Acts 1933; Burns 64-1031; Baldwin 15664.

²³ Acts 1927, 1937; Burns, 1941 suppl., 47-129; Baldwin, 1937 suppl., 11145. Acts 1919; Burns 64-1102; Baldwin 15698. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. *McConnell v. Hampton*, 164 Ind. 547, 73 N. E. 1092 (1905); *Deniston v. Terry*, 141 Ind. 677, 41 N. E. 143 (1895). *Thirty-ninth Annual Conference of State Tax Board*, pp. 22-30, 53-139.

²⁴ Acts 1933, 1935; Burns, 1941 suppl., 64-905; Baldwin, 1935 suppl., 15903. *Thirty-ninth Annual Conference of State Tax Board*, pp. 39-53.

²⁵ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1931, 1933, 1939; Burns, 1941 suppl., 6-2403; Baldwin, 1939 suppl., 15946. *Thirty-ninth Annual Conference of State Tax Board*, pp. 32-39.

²⁶ Acts 1901, 1909, 1915, 1921; Burns 28-3704; Baldwin 6288.

²⁷ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁸ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

the auditor),²⁹ took a census of deaf mutes in the county (now done by township assessors),³⁰ and kept a book showing the names of all blind, dumb, deaf, or insane persons in the county.³¹

Assessments by the county assessor under the property tax laws are subject to review by the county board of review. Such assessments are also reviewable by the circuit court on the question of taxability of the property.³²

The assessor must return to the auditor, on or before the first Monday after July 4 each year, all township assessors' books, returns, lists, schedules, maps, and other papers received by him from the auditor, together with such additional lists, assessments, books, and papers as he has made thereto.³³ He is not required to keep any records permanently.³⁴

214. COUNTY ASSESSOR'S BOOK, 1894-. 3 vols. Title varies: Assessor's Record of Notices, 1894-1914, 2 vols.

Record of notices by assessor to treasurer of omitted taxable property, showing date of notice and appearance of taxpayer, name of taxpayer, reason for and amount of increase, and location and description of property. Arr. alph. by name of taxpayer. No index. Hdw. 155 pp. 11 x 15 x 1½. 2 vols., 1894-1914, bookroom 2; 1 vol., 1915-, assr. off.

215. RECORD OF TRUST FUNDS, 1918-19. 1 vol.

Record of valuation of estates, showing names of administrator, guardian, executor or trustee, and estate or ward, dates of letters of administration or guardianship and final report, and amount of funds held in trust. Arr. alph. by name of administrator, guardian, executor or trustee. No index. Hdw. 300 pp. 18 x 13 x 3. Bookroom 2.

²⁹ Rev. L. 1824, ch. 86, secs. 4, 5, 7. Acts 1838-39 (general), ch. 14, secs. 14, 15. Rev. Stat. 1843, ch. 12, sec. 28. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

³⁰ Acts 1838-39 (general), ch. 41, sec. 1. Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

³¹ Acts 1849-50 (general), ch. 17, secs. 2, 3.

³² Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. Acts 1819, 1827; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the State Board of Tax Commissioners.

³³ Acts 1919; Burns 64-1102; Baldwin 15608.

³⁴ Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

216. COUNTY ASSESSOR'S RECORD OF MORTGAGES, 1892-1902.
1 vol.

Record of real property mortgages, showing names of mortgagee and mortgagor, date and amount of mortgage, and date of satisfaction. Arr. alph. by name of mortgagor. No index. Hdw. 300 pp. 18 x 13 x 3. Bookroom 2.

217. TAXABLE INTANGIBLES, 1933-. 7 bdl.s.

Applications for determining the value of taxable intangibles, showing date of application; name of applicant; schedule of intangibles; amounts of face value, valuation by applicant, county assessor, and State Board of Tax Commissioners; and computation of tax. Arr. chron. by date of application. No index. Hdw. 14 x 11 x 1½. Assr. off.

XVI. COUNTY BOARD OF REVIEW

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of review has existed in Marshall County ever since 1891 under the requirements of acts of 1891,¹ 1895,² and 1919. The board is composed of the county assessor, auditor, and treasurer, and two freeholders of opposite political parties, appointed annually by the judge of the circuit court.³ An appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, and must reside within the county after his appointment.⁴ Every member must take an oath that he will support the State and Federal Constitutions and will faithfully discharge his duties as a member of the board of review and will assess, review, and equalize the assessment of all property of the county according to the true cash value of such property.⁵ The assessor and auditor are respectively the president and secretary of the county board of review.⁶

¹ Acts 1891, ch. 99, sec. 114.

² Acts 1895, ch. 36, sec. 2.

³ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁴ Const. 1851, art. 6, secs. 4, 6.

⁵ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

The appointed members of the county board of review receive, as compensation, \$5 for each day actually served as members of the board. Allowance therefor is made by the board of commissioners on claims supported by the certificate of the assessor. The assessor, auditor, and treasurer receive no compensation, in addition to their regular salaries, for their services on the board of review. Before 1933 the auditor and treasurer received, in addition to their regular salaries, \$5 per day for each day actually served as members of the board.⁷

For sufficient legal grounds any member of the county board of review may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁸ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁹ The judge of the circuit court fills vacancies as to members appointed by him.¹⁰ Any vacancy in the office of the other members is filled by replacement in the office of county assessor, auditor, or treasurer, as the case may be, the membership in the board of review being an incident to such office.¹¹

Before 1891 duties analogous to those of the present board of review were performed by the following officers and boards: From the organization of Marshall County in 1836¹² through 1838, clerk of the circuit court and assessors or listers;¹³ 1839 through 1840, board of commissioners, clerk of the circuit court, and assessors or listers;¹⁴ 1841, board of commissioners, county assessor, and auditor (personal property only); 1841, board of equalization, composed of the board of commissioners, auditor, and appraiser (real estate only);¹⁵ 1842 through 1852, board of equalization,

⁷ Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

⁸ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁹ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹¹ See the essays entitled "Auditor," "County Assessor," and "Treasurer."

¹² Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

¹³ Rev. L. 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. L. 1831, ch. 81, secs. 5, 7, 8.

¹⁴ Acts 1838-39 (general), ch. 14, secs. 5, 14, 15.

¹⁵ *Ibid.* Acts 1840-41 (general), ch. 1, secs. 9, 13.

consisting of the board of commissioners, county assessor, and auditor;¹⁶ 1853 through 1871, board of equalization, composed of the board of commissioners, auditor, and assessors for personal property;¹⁷ and composed of the board of commissioners, auditor, and appraiser or appraisers for real estate;¹⁸ 1872 through 1880, board of equalization, including the board of commissioners, county assessor, and auditor;¹⁹ and 1881 through 1890, board of equalization, consisting of the board of commissioners and four freeholders (from different parts of the county) appointed by the circuit judge.²⁰ The board of review under the act of 1891, referred to in the first paragraph of this essay, was composed of the county assessor, auditor, and treasurer;²¹ and from 1895 to 1918 it was composed, as at present, of the county assessor, auditor, treasurer, and two freeholders appointed by the circuit judge.²²

FUNCTIONS AND RECORDS

The county board of review hears complaints of taxpayers concerning new assessments (except those made by the State Board of Tax Commissioners), reviews and corrects such assessments, equalizes new property valuations, and assesses omitted property. The tax list prepared by the county assessor and township assessors stands except in the particulars where it is changed by the board. The board has power to set aside the new assessments for the whole county or a whole taxing unit therein and to order another assessment by the county assessor and township assessors under instructions from the board.²³ The action of the board is subject to review by the State Board of Tax Commissioners.²⁴ On questions of law concerning valuation of property, the decisions

¹⁶ Acts 1840-41 (general), ch. 1, sec. 18.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 91. Acts 1867, ch. 110, sec. 2.

The Revised Statutes of 1852 became effective on May 6, 1853. Jones v. Cavins, 4 Ind. 305 (1853.)

¹⁸ 1 Rev. Stat. 1852, ch. 35, sec. 2. Jones v. Cavins, 4 Ind. 305 (1853).

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278.

²⁰ Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

²¹ Acts 1891, ch. 99, sec. 114.

²² Acts 1895, ch. 36, sec. 2.

²³ Acts 1933; Burns 64-1031; Baldwin 15664. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. *Thirty-ninth Annual Conference of State Tax Board*, pp. 54-57.

²⁴ Acts 1919, 1935; Burns, 1941 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State Board of Tax Commissioners, tax rule 6.

of the board of review and of the State Board of Tax Commissioners may be reviewed by the circuit court; and appeal (on law and facts) may be taken from the board of review to the circuit court on the question of the property's taxability.²⁵

The board of review values and assesses the franchises, privileges, and capital stock of certain classes of corporations, and reviews the assessments of the tangible property of such corporations. Reports filed by these corporations with the county assessor are examined by the board. From the findings of the board the auditor computes the corporation taxes to be placed on the tax duplicate. This action of the county board is reviewable by the State Board of Tax Commissioners.²⁶

Sworn written statements to obtain tax deductions on mortgaged realty and to obtain tax exemptions of realty and personalty used for educational, charitable, religious, fraternal, literary, or scientific purposes are filed with the auditor each year and are presented by him to the board of review for decision thereon. The action of the board of review is reviewable by the State Board of Tax Commissioners.²⁷

The board of review, after giving 2-weeks' notice, holds an annual meeting beginning on the first Monday of June;²⁸ and the session can last 40 days in any year in which the State Board of Tax Commissioners orders reassessment of any real estate in the county, and 30 days in other years. Additional time for completing this board's duties may be allowed by the State Board of Tax Commissioners.²⁹ A majority of all the members of the board of review constitutes a quorum for the transaction of business, and such majority

²⁵ Acts 1927; Burns 64-1020; Baldwin 15686. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 18, 1939.

²⁶ A.G.s 1919, 1921; Burns 64-723, 64-724; Baldwin 15637, 15638.

²⁷ Acts 1919, 1939; Burns, 1941 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. Acts 1937; Burns, 1941 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

No application for exemption is required as to property of the State of Indiana, the United States, municipal corporations, and political subdivisions of the State, nor for property owned and used by churches, State accredited schools, hospitals, and college fraternities and societies. Acts 1937; Burns, 1941 suppl., 64-215; Baldwin, 1937 suppl., 15518-4.

²⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁹ Acts 1919; Burns 64-1205; Baldwin 15704. State Board of Tax Commissioners, Tax

must concur in decisions of the board. The sheriff serves all of the board's process not served by the assessor, and obeys all orders of the board. The auditor, as secretary, is required to keep full and accurate minutes of the proceedings of the board.³⁰ The county assessor, as president, keeps an attendance record; and, at the close of the session, certifies to the board of commissioners the number of days actually served by each member.³¹

218. RECORD OF BOARD OF REVIEW, 1916-. 2 vols. (3, 4). Minutes of meetings of board of review, showing date and time of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by date of meeting. No index. Typed. 450 pp. 18 x 12 x 2. 1 vol., 1916-21, aud. vt.; 1 vol., 1922-, aud. off.

219. BOARD OF REVIEW, 1924-. 1 f. b. Documents pertaining to meetings and proceedings, consisting of:

- i. Copies of notices to public of meetings of board, showing date, place, and purpose of meeting; date of filing; number of days of session; and dates that complaints from each taxing unit are to be heard.
- ii. Notices of appointment of members by judge of circuit court, showing dates of appointment, oath, and filing, and name of appointee.
- iii. Petitions of owners for adjustment of taxes, showing dates of petition and filing, name and address of petitioner, assessed valuation of property, and reason for asking adjustment.

Arr. chron. by date of filing. No index. Hdw. and typed. 10 x 5 x 15. Aud. off.

XVII. COUNTY BOARD OF TAX ADJUSTMENT

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of tax adjustment has existed in Marshall County ever since 1932 under the requirements of an

³⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

³¹ Acts 1919; Burns 64-1204; Baldwin 15703.

act of 1932,¹ 1933,² and 1937. The board consists of seven members, chosen as follows: One member of the county council, selected by the council; the mayor of the city of Plymouth or any public official of the city appointed by him; one member of the county board of education, selected by that board; and four persons, who are citizens and freeholders of the county, appointed before April 15 each year by the judge of the circuit court to hold office until April 15 of the following year. No more than four of the seven members of the board of tax adjustment may be members of the same political party. Each member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, must reside within the county after his appointment, and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.³

The county board of tax adjustment elects a chairman and a vice chairman from among its members; and the auditor acts as clerk, but has no vote in its proceedings. The members of the board serve without compensation. The board may employ one of the examiners of the State Board of Accounts to assist in the duties of the county board of tax adjustment; and the auditor pays from county funds the expenses in connection with such employment.⁴

For sufficient legal grounds any member of the county board of tax adjustment may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ A vacancy in the office of any member is filled in the manner provided by law for filling such office originally.⁷

Before 1932 no county officer or board performed duties analogous to those of the county board of tax adjustment.

¹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

² Acts 1933, ch. 237, sec. 4.

³ Const. 1851, art. 6, secs. 4, 6; art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁴ Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1837; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

except that in 1920 the county's tax levies were reviewable by the county council.⁸ Since 1919, with the exception of 1920, the budgets, tax levies, and tax rates of the county and the taxing units therein have been reviewable directly by the State Board of Tax Commissioners in certain instances.⁹ Before 1919 the sole remedy of a taxpayer to obtain a review of such budgets, tax levies, or tax rates was to apply to a court for an injunction.¹⁰

The board of tax adjustment under the act of 1932, referred to in the first paragraph of this essay, was composed of seven members, namely, the auditor, three members of the county council (selected annually by the council), and three members appointed annually by the judge of the circuit court.¹¹ The board established under the act of 1933 was composed of seven members appointed for 1-year terms. One member was appointed by the county council from the members of the council. The other six members were appointed by the judge of the circuit court, as follows: A township trustee; the mayor of a city or the president of the board of trustees of a town; a member of the board of school commissioners, board of school trustees, or board of education of a school city or school town; and three resident freeholders of the county at large, not holding any other public office by virtue of an election held or appointment made within the county, and not closely related to the executive head of any municipal corporation of which the board of tax adjustment had jurisdiction.¹²

FUNCTIONS AND RECORDS

The board of tax adjustment reviews budgets, tax levies, and tax rates adopted by the county council for the county and also those adopted by the several taxing units within the county.¹³ The action of the board of tax adjustment is

⁸ Acts 1920 (Spec. Sess.), ch. 49, sec. 3. Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 22, 1939, by W. Davis Hamilton.

⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1303, 64-1329, 64-1330; Baldwin 15707, 15733, 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹⁰ Toledo & W. R. Co. v. Lafayette, 22 Ind. 262 (1854); First Nat. Bank v. Greger, 157 Ind. 479, 62 N. E. 21 (1901). Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 22, 1939, by W. Davis Hamilton.

¹¹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

¹² Acts 1933, ch. 237, sec. 4.

¹³ Acts 1899; Burns 26-515; Baldwin 5379. Acts 1937; Burns, 1941 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

subject to review by the State Board of Tax Commissioners.¹⁴

The board of tax adjustment meets on the second Monday in September each year, and from day to day thereafter as its business requires, and must complete its duties on or before October 1.¹⁵ The auditor, as clerk, keeps a complete record of the proceedings of the board.¹⁶

220. [TAX ADJUSTMENT BOARD MINUTES], Oct. 10, 1932-. In County Council Record, entry 28.

Minutes of meetings of county board of tax adjustment, showing date of meeting, names of members present, business discussed, and action taken.

221. RATE OF TAXATION, 1872-1913. 1 vol. 1913-in Tax Duplicate and Delinquent List, entry 236.

Record of tax levies established by various taxing units, showing date of recording, names of taxing unit and funds, itemized rate for each fund, and total levy. Arr. chron. by date of recording. No index. Hdw. 250 pp. 17 x 14 x 2. Bookroom 1.

XVIII. BOARD OF FINANCE

EVOLUTION AND STRUCTURAL ORGANIZATION

The board of finance has existed in Marshall County ever since 1907 under the requirements of acts of 1907, 1935, and 1937. Ever since 1907 the board has been composed of the county commissioners of Marshall County, with the county auditor serving as secretary.¹

The county auditor and the county commissioners receive no compensation for their services as secretary and members, respectively, of the board of finance. From 1907 to 1932, and in 1935 and 1936, the auditor received \$50 per year.²

¹⁴ Acts 1937; Burns, 1941 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8

¹⁵ Acts 1937; Burns, 1941 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5

¹⁶ Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

¹ Acts 1907, ch. 222, sec. 6 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, secs. 7, 43 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1937; Burns, 1941 suppl., 61-629, 61-663; Baldwin, 1937 suppl., 13844-50, 13844-84. For laws concerning eligibility, oath, and removal of these officers, see the essays entitled "Auditor" and "Board of Commissioners."

² Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

Before 1907 no county officer or board performed duties analogous to those of the board of finance.³

FUNCTIONS AND RECORDS

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.⁴ After inviting proposals from each bank and trust company in the county, the board designates depositories for county funds,⁵ and for all fees and funds received by the clerk of the circuit court by virtue of his office.⁶ It may revoke the commission of any depository at any time.⁷ In the name of "The Board of Finance of Marshall County," the board may sue and be sued in any action in any court of competent jurisdiction.⁸

The board of finance holds an annual meeting on the third Monday in January, at which it elects its president;⁹ and holds a biennial meeting on the third Monday in February, in the odd-numbered years, at which it considers proposals and designates depositories for the ensuing 2-year period.¹⁰ The board holds sessions whenever necessary to discharge its duties and accomplish the purposes of the laws governing it. A majority of the members constitutes a quorum for the transaction of business. All meetings are open to the public.¹¹

The board keeps as permanent records the depositories' monthly statements of deposits.¹² The auditor, as secretary of the board of finance,¹³ keeps a record of its proceedings. All records of the board are subject to public inspection.¹⁴

³ Information obtained from E. P. Brennan, State Examiner, on May 31, 1939, by W. Davis Hamilton.

⁴ Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

Defunct depositories. State ex rel. Jackson v. Middleton, 215 Ind. 219, 19 N. E. (2d) 470 (1939). Op. Atty. Gen. 1939, p. 247.

⁵ Acts 1937; Burns, 1941 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

⁶ Acts 1937; Burns, 1941 suppl., 61-673; Baldwin, 1937 suppl., 1438-1.

⁷ Acts 1937; Burns, 1941 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

⁸ Acts 1937; Burns, 1941 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

⁹ *Ibid.*

¹⁰ Acts 1937; Burns, 1941 suppl., 61-636; Baldwin, 1937 suppl., 14844-57.

¹¹ Acts 1937; Burns, 1941 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

¹² Acts 1937; Burns, 1941 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

¹³ Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

¹⁴ Acts 1937; Burns, 1941 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

222. [RECORD OF BOARD OF FINANCE], 1907-. In Commissioners' Record, entry 2.

Minutes of meetings of board of finance, showing date of meeting, names of members present, nature of business discussed, and action taken.

223. INTEREST RECORD, 1919-Feb. 28, 1931. 1 vol.

Record of statements by depositories of county funds of interest due county, showing date of statement, and amounts of daily and monthly balance and interest due. Arr. chron. by date of statement. No index. Hdw. 400 pp. 18 x 12 x 2. Aud. off.

XIX. COUNTY SCHOOL FUND BOARD

EVOLUTION AND STRUCTURAL ORGANIZATION

The county school fund board exists under the mandatory provisions of an act of 1935. The board is composed of the county auditor, the clerk of the circuit court, and one member appointed by the judge of the circuit court for a 2-year term. No more than two members of the board may be adherents of the same political party.¹ The appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, must reside within the county after his appointment,² and must take an oath to support the State and Federal Constitutions and faithfully discharge his duties.³

The appointed member of the county school fund board receives, as compensation, \$2 for each loan made by the board, which amount is taxed as a part of the costs and is paid by the borrower. The auditor and the clerk of the circuit court receive no compensation, in addition to their regular salaries, for their services on the county school fund board.⁴

¹ Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

² Const. 1851, art. 6, secs. 4, 6.

³ Const. 1951, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

For the qualifications and oath of the ex officio members, see the essay entitled "Auditor and "Clerk of the Circuit Court."

⁴ 1 Rev. Stat. 1852, ch. 98, sec. 69. Acts 1853, ch. 106, sec. 5. Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

For sufficient legal causes any member of the county school fund board may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ The judge of the circuit court fills the vacancy as to the member appointed by him.⁷ Any vacancy in the office of the other members is filled by replacement in the office of the county auditor or clerk of the circuit court, as the case may be, the membership in the county school fund board being an incident to such office.⁸

From 1836 to 1849 loans from the school funds were made by the county school commissioner. In 1849 this office was abolished and the duties thereof were divided between the auditor and the treasurer, under the direction of the board of commissioners.⁹ With appraisals made by the township trustees, the auditor had authority to make loans until 1935.¹⁰ An act of March 12, 1935 (repealed on March 9, 1937) authorized the auditor, with the approval of the board of commissioners, to employ an "administrator of the school fund loans" to make investigations, collections, and recommendations under the supervision of the auditor.¹¹

FUNCTIONS AND RECORDS

The school funds held by the county in trust for the purpose of making loans therefrom are kept by the auditor in three accounts, to wit: The "common school fund," the "Congressional township school fund," and the "permanent endowment fund of the Indiana University." These trust funds are loaned by the county school fund board.¹²

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *McComas v. Krug*, 81 Ind. 327 (intoxication) (1879).

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁸ See the essays entitled "Auditor" and "Clerk of the Circuit Court."

⁹ See the essay entitled "County School Commissioner (1836-49)."

¹⁰ 1 Rev. Stat. 1852, ch. 93, secs. 34, 35. Acts 1865, ch. 1, sec. 75.

¹¹ Acts 1935, ch. 273 (repealed by Acts 1937, ch. 153).

¹² Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101, 28-105; Baldwin 6499, 6511. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. *Fisher v. Brower*, 159 Ind. 139, 64 N. E. 614 (1902).

All loans made by the county school fund board (except those made to the county) must be secured by first mortgages on real estate. The applicant for a loan must furnish the necessary title papers and an abstract of title; must make an affidavit that the abstract is a true one and that he knows of no encumbrance; and must present a certificate of the recorder and clerk of the circuit court that there is no encumbrance on the property. A title "derived from sale for taxes" cannot be accepted. The county attorney examines the title, and appraisers (annually appointed by the board of commissioners) ascertain the value of the property. The county school fund board, after considering the reports of the county attorney and appraisers, then determines whether the title and value of the property are sufficient security for the proposed loan.¹³

Not more than \$4,000 can be loaned to any one person or company,¹⁴ and the amount loaned cannot exceed one-half the last assessed valuation of the property for taxes.¹⁵ The interest rate on such loans (except those made to the county) is 5 percent per annum.¹⁶ Loans may be made to the county, on proper authorization by the county council, for a period not exceeding 5 years,¹⁷ and the rate of interest thereon is 6 percent per annum.¹⁸ No loan can be made for a term longer than 5 years. At the end of any year before default, the borrower may pay an amount not less than 10 percent of the original principal of the loan.¹⁹ Expenses of appraisers, abstract of title, and recording the mortgage are paid by the borrower except when the county pays such expenses upon order of the board of commissioners.²⁰ In making such loans preference must be given to the residents

The sources of the funds held in trust for school purposes and the distribution of the interest thereon are discussed under the section entitled "Education" in the essay entitled "Governmental Organization and Records System."

¹³ Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558. Acts 1881 (Spec. Sess.); Burns 28-210; Baldwin 6580. Acts 1865, 1885 (Spec. Sess.); Burns 28-211 to 28-213; Baldwin 6562, 6559, 6560.

¹⁴ Acts 1901; Burns 28-220; Baldwin 6564.

¹⁵ Acts 1901, 1903, 1923; Burns 28-221; Baldwin 6565.

¹⁶ Acts 1933; Burns 28-215; Baldwin 6574.

¹⁷ Acts 1901; Burns 28-201, 28-202; Baldwin 6568, 6569.

¹⁸ Acts 1901; Burns, 28-204, Baldwin 6571.

¹⁹ Acts 1901; Burns 28-223; Baldwin 6567. Acts 1913; Burns 28-258; Baldwin 6610.

²⁰ Acts 1905; Burns 28-227; Baldwin 6619.

of the county.²¹ Loans may be made to corporations or individuals.²²

The mortgage must specify whether it belongs to the common school fund, to the permanent endowment fund of Indiana University, or to the Congressional township school fund, and, if the latter, the particular township or townships whose trust funds are loaned.²³ The auditor must immediately deliver the mortgage to the recorder for recording, and must deduct from the loan the amount of the recording fee.²⁴ Payments on these loans are made to the treasurer; and his receipt is filed with the auditor, who gives the payer a quietus therefor.²⁵ The auditor may accept, at face value, bonds of the Home Owners Loan Corporation or Federal Farm Mortgage Corporation (agencies of the United States) in payment of these loans when presented by said corporations or their agents.²⁶ Default in payment of interest when due causes the principal of the loan to become due and payable.²⁷ Borrowers from the school funds may have their mortgages renewed at the end of 5 years by giving notice to the auditor. Their property must be reappraised before such renewal.²⁸ The auditor forecloses or otherwise enforces the defaulted mortgages.²⁹ Whenever land acquired by the county through default on such loans cannot be sold by the auditor for an amount sufficient to cover the loan, the interest thereon, and expenses in connection therewith, the county may pay the loan, accept the land, and take possession thereof.³⁰

²¹ Acts 1865, 1865; Burns 28-214; Baldwin 6561.

²² Op. Atty. Gen. 1938, p. 104.

²³ Acts 1865; Burns 28-230 to 28-232; Baldwin 6587 to 6589.

²⁴ Acts 1865; Burns 28-233; Baldwin 6583.

²⁵ Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

²⁶ Acts 1925; Burns, 1941 suppl., 28-268; Baldwin, 1935 suppl., 6572-1.

²⁷ Acts 1865; Burns 28-241; Baldwin 6585.

²⁸ Acts 1913; Burns 28-258; Baldwin 6610.

²⁹ Rev. Stat. 1843, ch. 13, sec. 96, p. 252. Acts 1855, ch. 86, sec. 86. Acts 1865, 1885 (Spec. Sess.), 1889, 1933; Burns 28-240 to 28-244, 28-246 to 28-249; Baldwin 6586, 6585, 6595 to 6597, 6599 to 6601, 6594. Webb v. Moore, 24 Ind. 5 (1865); Key v. Ostrander, 29 Ind. 1 (1867); Bonnell v. Ray, 71 Ind. 141 (1890); Willson v. Brown, 82 Ind. 471 (1892); Benefiel v. Aughe, 93 Ind. 401 (1894); Shannon v. Hay, 106 Ind. 589, 7 N. E. 376 (1896); Windstandley v. Crim, 117 Ind. 328, 20 N. E. 833 (1889); Haynes v. Cox, 118 Ind. 124, 20 N. E. 758 (1889); Work v. State ex rel. Holland, 120 Ind. 119, 22 N. E. 127 (1889); State ex rel. Longfellow v. Wimer, 166 Ind. 530, 77 N. E. 1078 (1906).

³⁰ Acts 1899; Burns 28-250 to 28-256; Baldwin 6602 to 6608. Board of County Comrs. v. State ex rel. Michener, 120 Ind. 442, 22 N. E. 339 (1889); Board of County Comrs. v. State ex rel. Michener, 122 Ind. 233, 24 N. E. 347 (1890); State ex rel. Michener v. Board of County Comrs., 5 Ind. App. 220, 32 N. E. 92 (1892).

Whenever more than \$5,000 of the principal of any one of these funds remains unloaned in the county for 6 months, the county auditor must notify the Auditor of State, and the unloaned moneys may be transferred to another county.⁸¹

The auditor and treasurer make annual reports to the board of commissioners showing the condition and activity of these school funds. The board of commissioners examines the reports, makes a written report of such examination, enters it of record, and transmits copies (signed by the auditor, treasurer, and county commissioners) to the State Superintendent of Public Instruction and the Auditor of State.⁸² Where the whole or part of the school funds of the county have been loaned, the auditor apportions to each Congressional township a sufficient number of mortgages to cover the principal of its Congressional township school fund.⁸³ A "miscellaneous school fund account" with the Congressional township school fund may be kept by the auditor to enable him to aggregate small sums of available trust funds to be used for one loan. In his reports he shows fully the distribution of all school funds.⁸⁴

The auditor makes and keeps complete records of all loans made by the county school fund board, showing all payments and proceedings thereon.⁸⁵ The record entries for loans to counties are similar to those made for loans to private individuals.⁸⁶ Once each quarter the auditor publishes in a local newspaper a statement of the amount of school funds unloaned.⁸⁷

For records of the school fund board, see entries 282-291.

XX. TREASURER

LEGAL STATUS

The office of treasurer has existed in Marshall County ever since 1836 under the requirements of acts of 1831, 1838,

⁸¹ Acts 1901; Burns 28-206; Baldwin 6573.

⁸² Acts 1855, ch. 86, secs. 88, 95. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

⁸³ Acts 1865; Burns 28-263; Baldwin 6615.

⁸⁴ Acts 1879; Burns 28-264 to 28-266; Baldwin 6616 to 6618.

⁸⁵ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573. Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

⁸⁶ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573.

⁸⁷ Acts 1883, ch. 58, sec. 1. Acts 1899, ch. 95, sec. 1. Acts 1907; Burns 28-207, 28-208; Baldwin 6566, 6567. Board of County Comrs. v. Leslie, 63 Ind. 492 (1876).

1841, 1843, and the Constitution of 1851; and has existed in Marshall County since 1836. The treasurer is elected for a 2-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 4 years in any 6 year period.⁴

The treasurer must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;⁵ must reside within the county after his election; must not hold any other lucrative office;⁶ and must not practice law.⁷

He must post an official bond covering his duties as county treasurer, to be approved by the board of commissioners and filed with the clerk of the circuit court. The bond must be in an amount not less than the amount of money which may come into his hands as county treasurer at any time during his term, as determined by the board.⁸ The treasurer must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹

The treasurer receives a regular salary of \$2,040 per year. In addition to this salary, he receives, as compensation for himself, 6 percent of all delinquent personal property taxes collected by him, plus a "demand fee" of 50 cents on each collection of delinquent taxes resulting from personal demand. From 1919 until 1933 he also received \$5

¹ Const. 1851, art. 6, sec. 2. *Gemmer v. State ex rel. Stephens*, 163 Ind. 150, 71 N. E. 478 (1904). See footnotes 21-26 herein.

² Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 4, sec. 56. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

⁵ *Ibid.*, art. 6, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, secs. 61, 75.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State*, 27 Ind. 491 (1867).

⁸ Rev. L. 1831, ch. 21, sec. 1; ch. 81, secs. 17, 19. Rev. Stat. 1843, ch. 4, secs. 88, 92-100; ch. 27, secs. 71-73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. *Pepper v. State ex rel. Harvey*, 22 Ind. 399 (1864).

⁹ Const. 1851, art. 15, sec. 4. Rev. L. 1831, ch. 81, sec. 17. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81, 83, 84, 92; ch. 7, secs. 72, 73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

per day for each day actually served as a member of the board of review of Marshall County.¹⁰

For sufficient legal grounds the treasurer may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹¹ If the treasurer is convicted of a felony, the judgment of conviction must declare his office vacant.¹² If the treasurer becomes officially delinquent and a suit is commenced on his official bond, he may be removed from office by the board of commissioners,¹³ but such removal is subject to review by the circuit court.¹⁴

Any vacancy in the office of treasurer is filled through appointment by the board of commissioners. The appointee must take an oath and post bond, as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁵

The treasurer may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes the salaries, which must be not less than \$75 nor more than \$200 per month.¹⁶ The treasurer may, at his own expense, employ other persons to collect

¹⁰ Rev. L. 1831, ch. 21, sec. 5; ch. 81, sec. 4. Rev. Stat. 1838, ch. 22, sec. 5. Rev. Stat. 1843, ch. 7, sec. 90; ch. 12, secs. 59, 71. Acts 1871, ch. 17, secs. 29, 30. Acts 1933; Burns 49-1001, 49-1004, 49-1016; Baldwin 7531, 7534, 7546. Acts 1933, 1937; Burns, 1941 suppl., 49-1006; Baldwin, 1937 suppl., 7536. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Town of Paoli v. Charles, 164 Ind. 690, 74 N. E. 508 (1905). Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. L. 1831, ch. 21, sec. 6. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹³ Rev. L. 1831, ch. 21, sec. 6. Rev. Stat. 1838, ch. 22, sec. 6. Rev. Stat. 1843, ch. 7, sec. 87. 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

¹⁴ 1 Rev. Stat. 1852; Burns 26-201; Baldwin 5277.

¹⁵ Const. 1851, art. 6, sec. 9. Rev. L. 1831, ch. 21, sec. 6. Rev. Stat. 1843, ch. 4, secs. 136, 139, 160, 162, 163, 168, 169; ch. 7, secs. 74, 87. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1861 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13105, 13107. Douglass v. State ex rel. Wright, 31 Ind. 429 (1869); Beale v. State ex rel. Gray, 49 Ind. 41 (1874); Weaver v. State ex rel. Sims, 152 Ind. 479, 53 N. E. 450 (1899). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁶ Rev. L. 1831, ch. 81, secs. 17, 37. Rev. Stat. 1843, ch. 12, sec. 153. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Op. Atty. Gen. p. 256; p. 324.

delinquent personal property taxes by personal demand.¹⁷ The treasurer may require the deputy to give bond.¹⁸ The deputy must take the oath required of the treasurer, may perform all the official duties of the treasurer, and is subject to the same regulations and penalties.¹⁹ The treasurer may remove such deputy and assistants at any time, and is responsible for their official acts.²⁰

From the organization of Marshall County in 1836²¹ until 1841 a county treasurer was annually appointed by the board doing county business.²² He received and disbursed county funds; received taxes collected by the tax collector; collected the fees charged for the licensing of taverns, shows, and vending of foreign merchandise; kept a separate account of receipts from fines, to be used to support county seminaries; and made annual settlements with the board.²³ From 1836 to 1841 a county tax collector was appointed annually by the board.²⁴ The tax collector collected taxes (other than the license fees aforesaid); conducted tax sales; issued tax sale certificates and tax deeds; paid all collected funds over to the county treasurer and State Treasurer; filed with the clerk of the circuit court a report concerning the sale of lands for delinquent taxes; and made and delivered to the clerk an alphabetical list of all white male persons over the age of 21 years residing in the county.²⁵ In 1841

¹⁷ Acts 1833, 1937; Burns, 1941 suppl., 49-1006; Baldwin, 1937 suppl., 7536.

¹⁸ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 131C8.

¹⁹ Rev. Stat. 1843, ch. 4, sec. 85. 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. Lucas v. Shepherd, 16 Ind. 368 (1861).

²⁰ Rev. Stat. 1843, ch. 7, sec. 88; ch. 12, secs. 82, 153. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1903, 1905, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²¹ Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

²² Rev. L. 1831, ch. 21, sec. 1. Rev. Stat. 1838, ch. 22, sec. 1.

²³ Acts 1816-17, ch. 8, sec. 22; ch. 10, sec. 13; ch. 17, secs. 1-11; ch. 19, secs. 7, 13, 15; ch. 23, sec. 5; ch. 27, sec. 1; ch. 69, sec. 23. Acts 1817-18 (special), ch. 2, sec. 1; ch. 4, sec. 1; ch. 36, sec. 2. Acts 1817-18 (general), ch. 4, sec. 3; ch. 13, sec. 30; ch. 14, secs. 4, 25; ch. 32, sec. 9; ch. 42, secs. 3, 12, 14, 18, 22, 23, 25; ch. 43, sec. 21; ch. 44, secs. 1-11; ch. 47, sec. 2; ch. 62, secs. 2, 3; ch. 72, sec. 2; ch. 77, sec. 5; ch. 79, sec. 1. Rev. L. 1824, ch. 23, secs. 1-10; ch. 86, secs. 24, 25, 32, 36, 37. Acts 1826-27, ch. 72, sec. 6. Acts 1827-28, ch. 63, sec. 3. Rev. L. 1831, ch. 20, secs. 15, 17; ch. 21, secs. 1-10; ch. 81, secs. 14, 29, 31, 38, 39, 45, 46, 50. Rev. Stat. 1838, ch. 21, secs. 15, 17; ch. 22; ch. 41, sec. 8; ch. 105, secs. 1-6.

²⁴ Rev. L. 1824, ch. 86, secs. 18, 42. Rev. L. 1831, ch. 81, secs. 17, 18.

²⁵ Rev. L. 1824, ch. 23, secs. 6, 8, 11, 13; ch. 86, secs. 11-16, 19-28, 32, 34-37, 39-41, 45. Acts 1825, ch. 9, sec. 1. Acts 1829-30, ch. 9, sec. 5. Rev. L. 1831, ch. 20, secs. 15, 18, 19; ch. 21, secs. 2-4, 10; ch. 81, secs. 14, 17-46, 51. Rev. Stat. 1838, ch. 21, secs. 18, 19.

the office of county tax collector was abolished and the duties of that office were transferred to the county treasurer. From 1841 until the adoption of the Constitution of 1851, the treasurer was elected for a 3-year term by the voters of the county.²⁶

FUNCTIONS AND RECORDS

The treasurer receives all moneys coming to the county, issues official receipts therefor, and disburses the same on warrants issued by the auditor. He countersigns each warrant and stamps thereon the name of the depository by which it is payable. He may pay a warrant to the holder thereof out of funds in his office after requiring the payee and holder to endorse the same, in which case he must deposit the warrant in the depository in lieu of the cash paid out to the holder; or he may require the holder to present the warrant to the depository for payment.²⁷ He must deduct any delinquent taxes owing by the payee.²⁸ If no funds are available to pay a warrant when presented for payment, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment. When funds become available he publishes a call for redemption of such warrants.²⁹

The treasurer collects property taxes and poll taxes for the state and county and also for townships, cities, and towns in the county, as shown on the tax duplicate delivered to him by the auditor;³⁰ reports omitted polls and property to the auditor for assessment;³¹ keeps an "insolvent record"

²⁶ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 4, secs. 1, 13-22. Rev. Stat. 1843, ch. 4, secs. 2, 18; ch. 7, secs. 70, 75-91; ch. 12, secs. 53-180. *Ham v. State ex rel. Williams*, 7 Blackford 344 (1844).

²⁷ Rev. L. 1824, ch. 23, sec. 2. Rev. L. 1831, ch. 21, sec. 2. Rev. Stat. 1838, ch. 22, secs. 1, 2. Rev. Stat. 1843, ch. 7, secs. 76-84, 91. Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3103, 49-3104, 49-3111; Baldwin 5550, 5551, 5558. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 16341-48. *State ex rel. Zable v. Benson*, 70 Ind. 431 (1880).

Strays and driftage. Rev. Stat. 1833, ch. 37, secs. 1-19.

²⁸ Acts 1919; Burns 64-1506; Baldwin 15763.

²⁹ Acts 1872-23, ch. 36, secs. 3, 5. Acts 1899; Burns 49-2907, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5533.

³⁰ Rev. Stat. 1843, ch. 7, sec. 86; ch. 12, secs. 33-55, 62, 67, 174. Acts 1897, ch. 54, sec. 1. Acts 1905; Burns 48-5701, 48-6702, 48-6705; Baldwin 11511 to 11513. Acts 1919; Burns 64-1408, 64-1502; Baldwin 13745, 157-8. *Standard Oil Co. v. Bantz*, 58 Ind. 231 (1884).

³¹ Acts 1919; Burns 64-2102; Baldwin 15803.

of dropped taxes (prepared by the auditor);³² keeps auditor's certificates correcting the tax duplicate;³³ sells real estate and personal property at public auction for delinquent taxes;³⁴ collects corporate taxes,³⁵ inheritance taxes,³⁶ and the excise tax on shares of stock and deposits of banks, trust companies, and loan associations;³⁷ sells intangible tax stamps for the State Board of Tax Commissioners;³⁸ and collects school fund loans³⁹ and special assessments for public improvements;⁴⁰ and collects certain military fines and pays the same to the Adjutant General of the State.⁴¹ Records of these funds and transactions are kept by him.

All public funds paid into the county treasury must be deposited by the treasurer daily in one or more depositories designated by the county board of finance. The treasurer makes monthly reports to the board of finance showing the balance of funds in the county treasury at the end of the previous month—consistent with the depository statements furnished to the board and treasurer;⁴² makes annual reports to the board of commissioners concerning school funds;⁴³ makes quarterly reports to the board of commissioners and auditor showing the amount of money in the county treasury;⁴⁴

³² Acts 1919; Burns 64-2801; Baldwin 15684.

³³ Acts 1919, 1925; Burns 64-1407; Baldwin 15744.

³⁴ Rev. Stat. 1843, ch. 7, sec. 89; ch. 12, secs. 56-67, 83-126. Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1941 suppl., 61-2202; Baldwin, 1937 suppl., 15807. Pay v. Shanks, 56 Ind. 554 (1877).

³⁵ Acts 1919; Burns 64-1801; Baldwin 15783.

³⁶ Acts 1931; Burns 6-2413; Baldwin 15951.

³⁷ Acts 1933; Burns 64-804, 64-807, 64-810, 64-827; Baldwin 15585, 15588, 15591, 15608.

³⁸ Acts 1933; Burns 64-927; Baldwin 15925.

³⁹ Acts 1865; Burns 28-235; Baldwin 6592.

⁴⁰ Drainage. Acts 1933; Burns 27-134; Baldwin 5770.

Levees. Acts 1907, 1927, 1933; Burns 27-805; Baldwin 10214.

Roads. Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1439, 36-1440; Baldwin 8942, 8943.

⁴¹ Acts 1923; Burns 45-510; Baldwin 10894.

⁴² Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1941 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

⁴³ Acts 1865; Burns 28-259; Baldwin 6611.

⁴⁴ Acts 1871, ch. 17, secs. 23, 31, 38. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1492; Baldwin 7577. Acts 1895, 1913; Burns 49-1403; Baldwin 7578. Wolfe v. State ex rel. Kennard, 90 Ind. 16 (1883).

makes monthly reports to the auditor showing the total amount of cash payments received by him during the month and the respective accounts on which they were applied;⁴⁵ makes annual settlements with the board of commissioners in January;⁴⁶ makes semiannual settlements for taxes with the county auditor in May and November,⁴⁷ and in accordance therewith pays to the State Treasurer in June and December all money due for State purposes;⁴⁸ and also makes payments to the State Treasurer at other times in accordance with official requests therefor.⁴⁹ He makes quarterly reports to the auditor showing specifically the amount of fees collected;⁵⁰ and deposits quarterly with the auditor all redeemed warrants.⁵¹

The treasurer must keep his office, books, and papers in a fireproof building (if available) and his office must be open for transaction of business during business hours.⁵² He must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be open to public inspection.⁵³ He keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds.⁵⁴

Forms for the following record books have been prescribed for county treasurers by the State Board of Accounts: Daily balance of cash and depositories; record of warrants by depositories; ledger of receipts and disbursements; register of taxes collected; record of bids for bonds; and daily

⁴⁵ Acts 1871, ch. 17, sec. 31. Acts 1919; Burns 64-2101; Baldwin 15802.

⁴⁶ Rev. L. 1824, ch. 23, sec. 2. Rev. Stat. 1843, ch. 7, sec. 90, Acts 1889; Burns 26-531; Baldwin 5795. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5663.

⁴⁷ Rev. Stat. 1843, ch. 12, secs. 68, 154. Acts 1919; Burns 64-2501; Baldwin 15850.

⁴⁸ Rev. Stat. 1843, ch. 12, secs. 68, 69. Acts 1919; Burns 64-2503, 64-2504; Baldwin 15852, 15853.

⁴⁹ Acts 1859, 1861; Burns 49-1813; Baldwin 15059. Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13844-47.

⁵⁰ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

⁵¹ Rev. Stat. 1843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

⁵² Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3106; Baldwin 5553. Acts 1853; Burns 49-3107, 49-3108; Baldwin 5556, 5557.

⁵³ Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

⁵⁴ Acts 1841-42 (general), ch. 4, sec. 5. Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

inventory of intangible tax stamps. This board has prescribed blank forms of monthly reports and various receipts.⁵⁵

The county treasurer is a member of the county board of review, which meets annually for the purpose of reviewing property tax valuations, assessing omitted property, and allowing tax exemptions.⁵⁶

RECEIPTS AND DISBURSEMENTS

GENERAL FUND

224. DAILY BALANCE BOOK, 1908-. 32 vols. (1 vol. unlabeled; 1-3: 23 vols. unlabeled). Title varies: Record of Balances, 1910-12, 3 vols.

Record of daily cash and depository balances, showing date of balance; amounts of opening and closing balances; nature and amount of receipts, disbursements, deposits, and withdrawals; and name of depository. Arr. chron. by date of balance. No index. Hdw. 400 pp. 18 x 12 x 3. 20 vols., 1908-28, bookroom 1; 12 vols., 1929-, treas. vt.

225. MONTHLY FINANCIAL STATEMENT, 1912-. 3 vols. Title varies: Monthly Balance Record, 1912-24, 2 vols. Record of monthly balances of county funds, showing date of balance, name of fund, total amounts of receipts and disbursements, and balance or overdraft. Arr. chron. by date of balance. No index. Hdw. 300 pp. 19 x 17 x 2. 2 vols., 1912-Nov. 30, 1924, bookroom 1; 1 vol., Dec. 31, 1924-, treas. off.

226. TREASURER'S LEDGER APPROPRIATIONS, RECEIPTS AND DISBURSEMENTS, 1867-1911, 1925-. 3 vols. Title varies: Treasurer's Ledger, 1867-1911, 1 vol. Ledger of receipts, appropriations, and disbursements of county funds, showing dates, numbers, and amounts of receipt, appropriation, and disbursement; names of payer, payee, and fund; source of receipts; and balance. This is a combination of two records intercurrently kept separately: Record of receipts, entry 227; and record of disbursements, entry 228. Also contains: Cashbook miscellaneous receipts, 1925-, entry 230; register of warrants redeemed, 1925-, entry 231; receipts and disbursements of school funds, 1925-, entry 234; and of receipts and disbursements of Congressional township

⁵⁵ Acts 1909: Burns 61-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

⁵⁶ See the essay entitled "County Board of Review."

and common school funds, entry 235. Arr. by name of fund, and chron. thereunder by date of receipt or disbursement. No index. Hdw. 600 pp. 16 x 12 x 2½. 1 vol., 1867-1911, bookroom 1; 2 vols., 1925-, treas. off.

227. RECORD OF RECEIPTS, 1912-24. 3 vols. (1-3). 1867-1911, 1925- in Treasurer's Ledger of Appropriations, Receipts and Disbursements, entry 226. Record of receipts of county funds, showing date, number, amount, and source of receipt; name of fund; and amount of balance or overdraft. Also contains: Record of school fund receipts, entry 234. Arr. by name of fund and chron. thereunder by date of receipt. No index. Hdw. 200 pp. 20 x 26 x 2. 1 vol., 1912-17, bookroom 1; 2 vols., 1918-24, treas. vt.

228. TREASURER'S REGISTER OF DISBURSEMENTS, 1912-24. 4 vols. (1 vol. unlabeled; 1, 1, 2). 1867-1911, 1925-in Treasurer's Ledger of Appropriations, Receipts and Disbursements, entry 226. Record of disbursements of county funds, showing date, number, and amount of warrant; names of fund and depository; and total amount of disbursement. Also contains: Record of school fund disbursements, entry 234. Arr. by name of fund, and chron. thereunder by date of disbursement. No index. Hdw. 250 pp. 18 x 26 x 2. 3 vols., 1912-Aug. 1923, bookroom 1; 1 vol., Sept. 1923-24, treas. vt.

229. CASH BOOK, 1886-1911. 13 vols. (6-17; 1 vol. unlabeled). Daily record of cash receipts, showing date, number, and amount of receipt and names of payer and fund. Arr. chron. by date of receipt. No index. Hdw. 400 pp. 16 x 12 x 2½. Bookroom 1.

230. CASH BOOK MISCELLANEOUS RECEIPTS, 1912-24. 1 vol. 1871-1911 in Treasurer's Record, entry 232; 1925- in Treasurer's Ledger of Appropriations, Receipts and Disbursements, entry 226. Treasurer's cashbook of all receipts other than taxes, showing date, number, and amount of receipt; and names of payer and fund. Also contains: Record of Congressional township and common school fund receipts, entry 235. Arr. numer. by receipt no. No index. Hdw. 240 pp. 18 x 12 x 2½. Bookroom 1.

231. REGISTER OF WARRANTS REDEEMED, 1912-24. 2 vols. (1 vol. unlabeled; 2). 1871-1911 in Treasurer's Record, entry 232; 1925-in Treasurer's Ledger

of Appropriations, Receipts and Disbursements, entry 226.

Cashbook of disbursements on auditor's warrants showing date, nature, number, and amount of warrant; names of payee, depository, and fund; and appropriation number. Also contains: Record of disbursements of Congressional township and common school funds, entry 235. Arr. numer. by warrant no. No index. Hdw. 320 pp. 16 x 12 x 2½. Bookroom 1.

232. TREASURES'S RECORD, 1871-1911. 4 vols.

Daily register of receipts and disbursements, showing date, nature, number, and amount of receipt and warrant; and names of payer, payee, and fund. This is a combination of two records later kept separately: Cashbook of miscellaneous receipts, entry 230; register of redeemed warrants, entry 231. Also contains: Record of taxes collected, 1871-97, entry 250. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 600 pp. 16 x 12 x 2½. Bookroom 1.

233. REGISTER OF WARRANTS AND DEPOSITORY BALANCES, 1913-. 6 vols. (1-6).

Register of warrants drawn on depositories, showing date, number, and amount of warrant; date redeemed; and names of fund and depository. Arr. alph. by name of depository. No index. Hdw. 600 pp. 18 x 13 x 3. 3 vols., 1913-24, bookroom 1; 3 vols., 1925-, treas. vt.

SCHOOL FUNDS

234. TREASURER'S SCHOOL FUND LEDGER, 1871-1911. 1 vol. Receipts 1912-24 in Record of Receipts, entry 227; disbursements 1912-24 in Treasurer's Register of Disbursements, entry 228; 1925-in Treasurer's Ledger Appropriations, Receipts and Disbursements, entry 226.

Treasurer's ledger of receipts and disbursements of school funds, showing dates and amounts of receipt and disbursement and names of payer, payee, and fund. Arr. by name of fund and chron. thereunder by dates of receipt and disbursement. No index. Hdw. 600 pp. 16 x 12 x 2½. Bookroom 1.

235. TREASURER'S SCHOOL FUND REGISTER, 1871-1911. 1 vol. Receipts 1912-24 in Cash Book. Miscellaneous Receipts, entry 230; disbursements 1912-24 in Register of Warrants Redeemed, entry 231; 1925-in Treasurer's Ledger of Appropriations, Receipts and Disbursements, entry 226.

Register of receipts and disbursements of common and Congressional township school funds, showing date, nature,

number, and amount of receipt and warrant and names of payer, payee, and fund. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 600 pp. 16 x 12 x 2½. Bookroom 1.

TAXATION

REAL, PERSONAL AND POLL

236. TAX DUPLICATE [and Delinquent List], 1877-. 176 vols. (dated).

Record of taxes payable and amounts returned delinquent, showing installment dates; duplicate number; names of taxpayer and taxing unit; location and description of lands, lots, and improvements; value of personal property; number of polls; amounts of special assessment and exemptions; and amounts payable, paid, and delinquent. This is a combination of two records formerly kept separately: Record of taxes payable, 1837-76, entry 237; and delinquent list, 1838-76, entry 238. Also contains: Record of tax levies, 1913-, entry 221. Arr. by name of taxing unit and number thereunder by duplicate no. No index. Hdw. 350 pp. 18 x 30 x 3. 124 vols., 1877-1925, bookroom 1; 28 vols., 1926-32, treas. vt.; 24 vols., 1933-, treas. off.

237. TAX DUPLICATE TREASURER, 1837-76. 81 vols. (dated).
1877-in Tax Duplicate and Delinquent List, entry 236.

Treasurer's record of all taxes payable, showing dates and amounts due and paid; duplicate number; names of taxpayer and taxing unit; location and description of property; value of lands, lots, and improvements; and amounts of poll, special assessments, and exemptions. Arr. by name of taxing unit, and number thereunder by duplicate no. No index. Hdw. 350 pp. 18 x 30 x 3½. Bookroom 1.

238. DELINQUENT LIST TREASURER, 1838-76. 91 vols. (dated).
1877-in Tax Duplicate and Delinquent List, entry 236.

Record of lands and lots returned delinquent, showing date of delinquency; duplicate number; names of property owner and taxing unit; location, description, and assessed valuation of property; and amounts of delinquency, penalty, and interest. Arr. by name of taxing unit, and number thereunder by duplicate no. No index. Hdw. 300 pp. 17 x 26 x 4. Bookroom 1.

239. RECORD OF INSOLVENT TAX PAYERS, 1858-. 5 vols. (3; 4 vols. unlabeled).

Record of uncollectable poll and personal taxes, showing

date of delinquency, nature and amount of taxes uncollectable, names of township and delinquent, and tax duplicate number. Arr. by name of t. and alph. thereunder by name of delinquent. No index. Hdw. 300 pp. 18 x 12 x 2. 4 vols., 1858-1911, treas. vt.; 1 vol., 1912-, treas. off.

240. [WORK SHEETS], 1933. 5 vols.

Record of delinquent taxes prior to 1934 subject to moratorium tax law of 1933, showing names of taxpayer and taxing unit; duplicate number; assessed valuation of property; and amounts of delinquency, penalty, interest and total. Arr. by name of taxing unit, and alph. thereunder by name of taxpayer. No index. Hdw. 800 pp. 12 x 9 x 5. Aud. off.

INTANGIBLES

241. SALE OF INTANGIBLE TAX STAMPS, 1933-. 3 vols. Daily inventory of intangible tax stamps, showing date of inventory; number, denomination, and amount of stamps on hand at beginning of day, received, sold, and on hand at close of day; and amount of sales. Arr. chron. by date of inventory. No index. Hdw. 200 pp. 9 x 8 x $\frac{1}{2}$. Treas. off.

242. MONTHLY BANK INTANGIBLE TAX REPORT, 1933-. 3 f. b.

Contains:

- i. Bank reports, showing dates of report and filing, number of shares, amounts of capital stock and undivided profits, assessed value of real estate owned, total amount of all deposits, taxable value of shares, surplus and undivided profits, taxable value of all deposits subject to taxation, and name of bank.
- ii. Building and loan association reports, showing dates of report and filing, name of association, total number of unpledged shares outstanding and amount paid in thereon, number of shares pledged to secure the payment of money lent and the amount paid on such pledged stock and credited thereto over and above the amount of the debt for which such shares are pledged, total amount of surplus, assessed value and description of all real estate and personal property owned for which it is liable for taxes, and amount of taxes due.

Arr. chron. by date of filing. No index. Typed. 10 x 5 x 15. 2 f. b., 1933-37, treas. vt.; 1 f. b., 1938-, treas. off.

PUBLIC IMPROVEMENTS

243. DITCH DUPLICATES, 1903-. 2 vols. (1, 1 vol. unlabeled).

Record of assessments for construction and maintenance of ditches, showing dates of assessment and payment; tax duplicate number; name of ditch; name and address of property owner; location and description of land; and amounts of assessment, payments, and delinquency. Arr. alph. by name of ditch and alph. thereunder by name of property owner. No index. Hdw. 300 pp. 18 x 32 x 3. 1 vol., 1903-7, bookroom 1; 1 vol., 1908-, treas. off.

244. BONDED DITCH DUPLICATE, 1903-. 3 vols.

Record of assessments to retire bonds issued for construction of ditches, showing names of ditch and landowner; duplicate and receipt numbers; amounts of principal, interest, and penalty; date of assessment; and date and amount of payment. Arr. alph. by name of ditch, and alph. thereunder by name of landowner. No index. Hdw. 150 pp. 22 x 17 x 3. 1 vol., 1903-Nov. 1, 1907, bookroom 1; 2 vols., Nov. 4, 1908-, treas. off.

245. JOURNAL [Ditch Taxes], 1931-. 2 vols.

Record of payments received for ditch assessments, showing names of ditch and taxpayer; duplicate number; amounts of principal, interest, and penalty; and date and amount of payment. Arr. alph. by name of ditch and alph. thereunder by name of taxpayer. No index. Hdw. 300 pp. 16 x 11 x 2. Treas. off.

246. DITCH TAX, 1906-26. 2 vols.

Register of notices to taxpayers of amount due on ditch assessments, showing date and amount of assessment and names of property owner and ditch. Arr. alph. by name of ditch and alph. thereunder by name of taxpayer. No index. Hdw. 400 pp. 17 x 14 x 2. Bookroom 1.

247. DITCH BOND INTEREST RECEIPT, 1905-Jan. 22, 1912.
1 vol.

Stubs of receipts issued for payments of ditch assessments to retire bond issues, showing receipt and ditch tax duplicate numbers; date, nature, and amount of receipt; and name of payer. Arr. numer. by receipt no. No index. Hdw. 200 pp. 17 x 5 x 2. Bookroom 2.

248. ROAD RECEIPT REGISTER, 1902-18. 2 vols.

Register of receipts issued for work performed on county roads, showing date, amount, and nature of receipt; names of taxpayer and taxing unit; and total amount of daily

receipts. Arr. alph. by name of t., and chron. thereunder by date of receipt. No index. Hdw. 300 pp. 16 x 11 x 2. Bookroom 1.

249. PROPERTY ROAD TAX, 1913-14. 3 f. b.

Receipts issued by road supervisors to taxpayers for work performed on roads in lieu of taxes and tendered treasurer for tax payments, showing date, number, nature, and amount of receipt; names of taxpayer, taxing unit, and supervisor; amount of tax; and road district and receipt numbers. Arr. chron. by date of receipt. No index. Hdw. 10 x 5 x 15. Treas. vt.

COLLECTIONS

250. TREASURER'S CASH BOOK, TAXES, 1898-. 33 vols. (dated). Title varies: Treasurer's Tax Register, 1898-1910, 6 vols.; Register of Taxes Collected, 1924-33, 8 vols. 1871-97 in Treasurer's Record, entry 232.

Register of taxes collected, showing date of collection, receipt number, names of taxpayer and taxing unit, and amount of tax. Arr. by name of taxing unit and chron. thereunder by date of collection. No index. Hdw. 600 pp. 18 x 16 x 3. 22 vols., 1898-1929, bookroom 1; 11 vols., 1930-, treas. vt.

251. TAX RECEIPTS, 1889-. 543 vols.

Duplicates of tax receipts issued for payments of taxes, showing date and amount of payment, names of taxpayer and taxing unit, receipt and tax duplicate numbers, and description of property. Arr. alph. by name of taxpayer. No index. Hdw. 500 pp. 11 x 5 x 3. 434 vols., 1889-1933, attic bookroom; 109 vols., 1934-, treas. off.

252. TAX RECEIPTS SENT TO BANKS FOR COLLECTION, 1911-. 8 vols.

Register of tax receipts sent to banks for convenience of taxpayers in making payments, showing date and number of tax receipt and names of taxpayer and bank. Arr. alph. by name of bank. No index. Hdw. 500 pp. 18 x 14 x 3. 7 vols., 1911-Mar. 19, 1934, bookroom 1; 1 vol., Oct. 17, 1934-, treas. off.

253. DELINQUENT TAX RECEIPTS, 1874-. 32 vols. Title varies: Miscellaneous Receipts, 1925-26, 2 vols.

Duplicates of tax receipts issued for payment of delinquent taxes, showing tax duplicate number; date and amount of payment; names of taxpayer and township; location and description of property; and amounts of delinquency, cost,

and fees. Arr. chron. by date of payment. No index. Hdw. 278 pp. 17 x 12 x 2. 16 vols., 1874-Nov. 27, 1933, bookroom 1; 15 vols., Dec. 1, 1933-38, treas. vt.; 1 vol., 1939-, treas. off.

254. REGISTER OF FEES, Aug. 1893-1910. 1 vol.

Record of fees received for collection of delinquent taxes, showing date and amount of payment, tax duplicate number, amount of fee, and year of delinquency. Arr. chron. by date of payment. No index. Hdw. 540 pp. 18 x 13 x 3. Bookroom 1.

MAPS

255. ROADS OF MARSHALL COUNTY, 1934. 1 map.

Political, communication, and land tenure map, showing date of map; names and locations of civil townships, schools, cities, towns, cemeteries, railroads, rivers, and creeks; numbers and boundaries of Congressional townships, ranges, and sections; wards and precinct boundaries; number of acres of farms; names of farm owners; and number and location of rural routes, state highways, and county roads. Drawn by Howard C. Grube. Black and White. Scale: 1" to 1 mi. 21 x 22. Treas. off.

256. MAP OF MARSHALL COUNTY, 1899. 1 map.

Political and communications map, showing date of map and names and locations of cities, towns, cemeteries, schools, churches, townships, rivers, creeks, ditches, railroads, and roads. Drawn by Everly and Cresener. Published by Goes Lithe Co., Chicago, Illinois. Ptd. Scale: 1" to 1 mi. 5' x 5'. Treas. off.

XXI. TAX COLLECTOR (1836-41)

LEGAL STATUS

From 1836 until 1841 Marshall County had a tax collector who was appointed for a 1-year term by the board of commissioners.¹ He posted bond in the amount of \$5,000, which was approved by the board of commissioners and filed with the

¹ Rev. L. 1824, ch. 86, secs. 18, 42. Acts 1827-28, ch. 64, sec. 1. Acts 1828-29, ch. 16, sec.

9. Rev. L. 1831, ch. 81, secs. 17, 18, 27, 33. See footnote 11 herein.

clerk of the circuit court.² The law provided that any vacancy in the office of the tax collector was to be filled through appointment by the clerk of the circuit court³ and that the executor, administrator, or legal representative of a deceased tax collector should collect the taxes which had been charged against the decedent as tax collector.⁴

FUNCTIONS AND RECORDS

The tax collector collected taxes;⁵ conducted tax sales; issued tax sale certificates and tax deeds;⁶ made and delivered to the clerk of the circuit court an alphabetical list of all white male persons of the age of 21 years or over;⁷ prosecuted persons for failure to obtain licenses for public exhibitions;⁸ and paid over to the State Treasurer the amount of taxes collected for the State,⁹ and to the county treasurer all funds collected for the county.¹⁰

An act of 1841 abolished the office of county tax collector and transferred the duties thereof to the county treasurer.¹¹

XXII. TRUSTEES OF PUBLIC SEMINARY (1836-53)

EVOLUTION AND STRUCTURAL ORGANIZATION

From 1836 until 1846 Marshall County had a trustee of the county seminary, who was appointed by the board of com-

² Rev. L. 1824, ch. 86, secs. 18, 27. Rev. L. 1831, ch. 81, sec. 17.

³ Rev. L. 1824, ch. 86, sec. 30.

⁴ *Ibid.*, ch. 23, sec. 6; ch. 68, secs. 1, 2.

⁵ Rev. L. 1824, ch. 23, secs. 2, 6, 9, 11, 13; ch. 24, secs. 10, 12; ch. 68, secs. 1, 2; ch. 86, secs. 11-16, 32, 41, 42. Acts 1825, ch. 47, secs. 7, 22, 28; ch. 49, sec. 5. Acts 1825-26, ch. 58, sec. 4. Acts 1826-27, ch. 72, secs. 2, 3, 14. Rev. L. 1831, ch. 81, secs. 14, 20, 34; ch. 82, sec. 39.

⁶ Rev. L. 1824, ch. 86, secs. 34-36, 40, 41. Acts 1825, ch. 47, sec. 11. Acts 1825-26, ch. 58, sec. 2. Acts 1827-28, ch. 33, sec. 1; ch. 77, sec. 36. Acts 1828-29, ch. 84, sec. 22. Rev. L. 1831, ch. 81, secs. 22, 24-26, 29-31.

⁷ Acts 1829-30, ch. 9, secs. 4, 5.

⁸ Rev. L. 1831, ch. 21, sec. 10. Rev. Stat. 1838, ch. 22, sec. 10.

⁹ Rev. L. 1824, ch. 86, secs. 19-23, 34, 39. Rev. L. 1831, ch. 81, sec. 39. Acts 1827-28, ch. 59, sec. 2.

¹⁰ Rev. L. 1824, ch. 86, secs. 24, 25, 34, 39.

¹¹ Acts 1841-42 (general), ch. 4, sec. 13.

missioners for a 3-year term.¹ From 1846 until 1853 five trustees were elected for 2-year terms by the voters of the county.² Bonds in varying amounts were posted by the trustees.³

FUNCTIONS AND RECORDS

The seminary trustees had custody of all seminary funds; made loans therefrom; charged interest at a rate not less than 6 percent per annum; prosecuted suits to recover money loaned; distributed funds as ordered by the judge of the circuit court; kept a record showing all funds received and disbursed, all loans made, and payments on such loans; and reported annually to the Speaker of the Indiana House of Representatives and to the board of commissioners.⁴

In 1853 the seminary fund was made a part of the common school fund under control of the county auditor, and the operation of schools was transferred to a township board headed by the township trustee.⁵

XXIII. COUNTY SCHOOL COMMISSIONER (1836-49)

LEGAL STATUS

From 1836 until 1849 Marshall County had a county school commissioner elected by the voters of the county for a 3-year term.¹ He posted bond in the amount of \$10,000.² The law

¹ Acts 1817-18 (general), ch. 72, sec. 1. Rev. L. 1824, ch. 22, secs. 1, 2. Rev. L. 1831, ch. 90, secs. 1, 11, 12, 25. Acts 1832-33, ch. 46, sec. 1. Rev. Stat. 1838, ch. 21, sec. 25; ch. 98, secs. 1, 11. Commissioners' Record, A:15, see entry 2.

² Acts 1845-46 (local), ch. 90.

³ Acts 1817-18 (general), ch. 72, sec. 1. Rev. L. 1824, ch. 22, sec. 2. Rev. L. 1831, ch. 90, sec. 2. Rev. Stat. 1838, ch. 21, sec. 25; ch. 98, sec. 12.

⁴ Acts 1817-18 (general), ch. 72, sec. 2. Acts 1821-22, ch. 65, sec. 1. Rev. L. 1824, ch. 22, secs. 2, 4, 10, 16. Rev. L. 1831, ch. 90, secs. 7-10, 16. Rev. Stat. 1838, ch. 98, secs. 7, 8, 16, 20, 23. Acts 1841-42 (general), ch. 121, sec. 2. Rev. Stat. 1843, ch. 14, secs. 27, 28, 30, 34, 36. Fassett A. Cotton, *Education in Indiana 1793 to 1934*, pp. 9, 10, 15.

⁵ Const. 1851, art. 8, sec. 2. 1 Rev. Stat. 1852, ch. 98, secs. 1, 4, 34.

¹ Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 3. Acts 1836-37 (general), ch. 2, subch. 2, sec. 1; ch. 21, sec. 1. Rev. Stat. 1838, ch. 94(2), sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 20.

Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

² Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 5. Acts 1836-37 (general), ch. 2, subch. 2, sec. 3. Rev. Stat. 1838, ch. 94, subch. 2, sec. 3. Rev. Stat. 1843, ch. 4, sec. 162.

provided that any vacancy should be filled through appointment by the board of commissioners.³

FUNCTIONS AND RECORDS

The county school commissioner was a fiscal agent for the school funds. He sold school lands at public sale after publishing and posting notice thereof; sold school lands at private sale, at the minimum price fixed by the trustees of such section, after such lands had been offered at public sale and remained unsold; issued certificates and deeds to the purchasers; recorded the sales of such lands in a book provided for that purpose; and delivered a true copy of the sale certificate to the recorder for recording.⁴

The commissioner received all money accruing from the sales of school lands; loaned out the school funds on first mortgages on real estate; charged interest at the rate of 6 percent per annum; required the borrowers to pay certain expenses in connection with making the loans; could deposit in loan offices the moneys arising from the sale of school lands; could sue to recover school fund loans; filed reports with the board of commissioners specifying how much money was received, to whom loaned, the security taken, and the balance due on any unpaid loan; and delivered to the Auditor of State a statement of all money paid into the State Treasury.⁵

Before 1838 when a school section was divided by a county line, it was in charge of the commissioner of the county in which the greater part of such section was situated. After 1838 the township trustee could grant control of such section to the commissioner of any county in which the divided school section was situated.⁶

³ Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, secs. 6, 33. Acts 1832-33, ch. 70, secs. 4, 9. Acts 1836-37 (general), ch. 2, subch. 2, secs. 2, 7. Rev. Stat. 1838, ch. 94, subch. 2, secs. 2, 7. Rev. Stat. 1843, ch. 4, sec. 160.

⁴ Acts 1828-29, ch. 84, secs. 10, 13; ch. 93, sec. 2. Rev. L. 1831, ch. 86, secs. 7, 13, 34. Acts 1832-33, ch. 70, secs. 43, 51, 55-58, 64, 67, 104. Acts 1836-37 (general), ch. 2, subch. 8, secs. 13-16, 20, 23; ch. 2, subch. 11, sec. 5. Rev. Stat. 1838, ch. 94, subch. 8, secs. 13-16, 20, 23; ch. 94, subch. 11, sec. 5. Rev. Stat. 1843, ch. 13, secs. 177, 185, 186, 195.

⁵ Acts 1828-29, ch. 84, secs. 8, 15, 19; ch. 93, sec. 2. Rev. L. 1831, ch. 86, secs. 6, 19, 22, 24, 26. Acts 1832-33, ch. 70, secs. 8, 84, 86, 91, 92, 100, 115, 116. Acts 1836-37 (general), ch. 2, subch. 9, sec. 1; ch. 2, subch. 10, secs. 12, 15; ch. 2, subch. 11, sec. 11. Rev. Stat. 1838, ch. 94, subch. 9, sec. 1; ch. 94, subch. 10, secs. 12, 15; ch. 94, subch. 11, sec. 11. Rev. Stat. 1843, ch. 13, sec. 109.

⁶ Acts 1828-29, ch. 84, sec. 13. Acts 1836-37 (general), ch. 2, subch. 2, secs. 8, 9. Rev. Stat. 1838, ch. 94, subch. 2, secs. 8, 9.

He kept separate accounts of principal and interest of funds belonging to each Congressional township; kept a record of his proceedings, subject to the inspection and examination of the board of commissioners; and rendered to the board of commissioners an annual report of all money received and disbursed.⁷

In 1849 the General Assembly abolished the office of school commissioner and transferred the duties thereof to the county auditor.⁸

XXIV. COMMISSIONER OF THREE PERCENT FUND (1836-43)

LEGAL STATUS

From 1836 until 1843 Marshall County had a commissioner of the 3-percent fund, appointed for an indefinite term by the board of commissioners.¹ He posted bond, approved by the board of commissioners, in the amount of \$1,000 before 1837 and in the amount of \$4,000 after 1837.²

FUNCTIONS AND RECORDS

By virtue of the compact between the United States and Indiana in 1816, the latter was to receive 3 percent of the net receipts of all public lands sold within its borders, to be used for the construction of public roads and canals within the State under the direction of the State Legislature.³

The 3-percent fund was apportioned, from time to time, by the Legislature to the various counties in the State;⁴ and

⁷ Acts 1828-29, ch. 84, sec. 14. Rev. L. 1831, ch. 86, secs. 15, 52. Acts 1832-33, ch. 70, sec. 73. Acts 1836-37 (general), ch. 2, subch. 2, secs. 11, 13, 15. Rev. Stat. 1838, ch. 94, subch. 2, secs. 11, 13, 15.

⁸ Acts 1848-49 (general), ch. 116, sec. 4.

¹ Acts 1832-33, ch. 58, secs. 2, 5, 7. Acts 1836-37 (general), ch. 35, secs. 2, 3. Rev. Stat. 1838, ch. 107 (first act), secs. 2, 3. Rev. Stat. 1843, ch. 7, sec. 32; ch. 13, sec. 121. Commissioners' Record, A:8, *see* entry 2.

² Acts 1832-33, ch. 58, secs. 3, 11. Acts 1836-37 (general), ch. 35, sec. 2. Rev. Stat. 1838, ch. 107 (first act), sec. 2.

³ 3 U. S. Stat. 290 (law of 1816), 424 (law of 1818). James Edward Hagerty, "Early Financial History of Indiana," *Indiana History Bulletin* XIV, 268.

⁴ Acts 1832-33, ch. 58, secs. 1, 4. Acts 1836-37 (general), ch. 35, sec. 1. Rev. Stat. 1838, ch. 107 (first act), sec. 1. Rev. Stat. 1843, ch. 13, sec. 121.

it was the duty of the commissioner of each county to superintend the expenditure of the money appropriated to his county for the construction of roads and bridges.⁵

The commissioner was required to keep an account of his expenditures and improvements, render a detailed statement of the receipts and expenditures, and make an annual report, on the conditions of the fund, to the board of commissioners.⁶

In 1843 the General Assembly abolished the office of the commissioner of the 3-percent fund and transferred the duties of this office to the auditor and treasurer.⁷

XXV. SURPLUS REVENUE AGENT (1837-43)

LEGAL STATUS

From 1837 until 1843 Marshall County had a surplus revenue agent who was appointed annually by the State Legislature. He was required to be a qualified voter of the State at the time of his appointment. He posted a bond for double the amount of money to be entrusted to his care, which was approved by the board of commissioners and filed with the clerk of the circuit court.¹ The law provided that any vacancy in the office should be filled through appointment by the board of commissioners.²

FUNCTIONS AND RECORDS

Under an act of Congress of June 23, 1836, surplus funds in the Federal Treasury were distributed as noninterest-bearing loans to the several States in proportion to their respective representation in Congress. The State Treasurer then sent a portion of this fund to each of the various counties for lending to citizens thereof with interest at 8 percent per annum.

⁵ Acts 1832-33, ch. 58, sec. 2. Acts 1836-37 (general), ch. 35, sec. 1; ch. 63, sec. 1. Rev. Stat. 1838, ch. 107 (first act), sec. 1.

⁶ Acts 1832-33, ch. 58, sec. 7. Acts 1836-37 (general), ch. 55, sec. 1. Rev. Stat. 1838, ch. 107 (third act), secs. 1, 3.

⁷ Rev. Stat. 1843, ch. 13, secs. 121-127; ch. 59.

¹ Acts 1836-37 (general), ch. 1, secs. 4, 25. Rev. Stat. 1838, ch. 89 (first act), sec. 4; ch. 89 (second act). See footnote 16 herein.

² Acts 1836-37 (general), ch. 1, secs. 18, 19. Rev. Stat. 1838, ch. 89 (first act), secs. 18, 19.

The interest was devoted to local school operation.³

The surplus revenue agent had custody of the surplus revenue funds aforesaid;⁴ made loans from such funds to citizens residing in the county; charged interest on such loans at the rate of 8 percent per annum; published or posted notices from time to time stating what funds were available for lending;⁵ valued all real property offered as security for such loans; ascertained that each loan was for an amount not exceeding 50 percent of the determined valuation;⁶ satisfied himself that the title to the property was regularly and legally derived from the Federal Government or the State of Indiana and was unincumbered;⁷ caused all mortgages to be recorded in the recorder's office;⁸ made loans on personal security of two or more freeholders of undoubted responsibility;⁹ made no loans for a term exceeding 3 years nor in an amount exceeding \$400 to one person;¹⁰ collected interest annually in advance and paid the same to the county school commissioner for distribution to the several townships;¹¹ and foreclosed mortgages when necessary to collect loans.¹² All filing fees and other expense of making the loans were paid by the borrower.¹³

On forms furnished by the State Treasurer, the agent kept a register of the names, dates, and amounts of all mortgages taken by him, showing all payments of interest and principal thereon.¹⁴ He made quarterly reports to the State Treasurer and the clerk of the circuit court, showing all transactions during the preceding quarter.¹⁵

In 1843 the General Assembly abolished this office and transferred the duties thereof to the county auditor.¹⁶

³ U. S. Stat. 5:52 (law of 1836). Acts 1836-37 (general), chs. 1, 51.

⁴ Acts 1836-37 (general), ch. 89, secs. 1-3, 6. Rev. Stat. 1838, ch. 89 (first act), secs. 1-3, 6.

⁵ *Ibid.* (both acts), sec. 7.

⁶ *Ibid.* (both acts), secs. 8, 9.

⁷ *Ibid.* (both acts), sec. 8.

⁸ *Ibid.* (both acts), sec. 15.

⁹ *Ibid.* (both acts), sec. 9.

¹⁰ *Ibid.* (both acts), secs. 10, 11.

¹¹ *Ibid.* (both acts), secs. 9, 13.

¹² *Ibid.* (both acts), sec. 16.

¹³ *Ibid.* (both acts), sec. 15.

¹⁴ *Ibid.* (both acts), sec. 24.

¹⁵ *Ibid.* Rev. Stat. 1838, ch. 89 (second act), sec. 7.

¹⁶ Rev. Stat. 1843, ch. 13, sec. 95; ch. 59, sec. 4.

XXVI. COUNTY AGENT (1836-52)

LEGAL STATUS

From 1836 to 1852 Marshall County had a county agent who was appointed by the board of commissioners. He had no definite term of office before 1843. From 1843 until 1852 his term of office was 3 years. He was required to post a bond subject to approval of the appointing authority.¹ No county commissioner, auditor, treasurer, or clerk of the circuit court could serve as county agent.²

FUNCTIONS AND RECORDS

The county agent performed various administrative duties delegated to him by the board of commissioners and was directly responsible to such board. He received conveyances of land given or sold for the use of the county, laid off such land into town lots, sold the lots, made conveyances, collected the money therefrom, and paid the same into the county treasury.³

The county library fund received 10 percent of all receipts from such sales.⁴ From the remainder of said receipts the essential expenses and the price of purchased land were paid and the balance used for erection of necessary public buildings. Any remaining funds were applied as any other money in the treasury.⁵

The county kept a record of sales and collections. Every 4 months, or sooner if required, he made a report and financial settlement with the board of commissioners.⁶

In 1852 the General Assembly abolished this office and transferred the duties thereof to the county auditor.⁷

¹ Acts 1817-18 (Spec.Sess.), ch. 1, sec. 2. Rev. L. 1824, ch. 93, secs. 1, 4. Rev. L. 1831, ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 4, sec. 48. Commissioners' Record, A:11, *see* entry 2. Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

² Acts 1817-18 (Spec. Sess.), ch. 2, sec. 4. Rev. L. 1824, ch. 93, sec. 11. Rev. Stat. 1838, ch. 93, sec. 11. Rev. Stat. 1843, ch. 18, sec. 20.

³ 1817-18 (Spec. Sess.), ch. 1, sec. 2. Rev. L. 1824, ch. 93, sec. 4. Rev. Stat. 1831, ch. 85, sec. 4. Rev. Stat. 1838, ch. 93, secs. 1, 4. Rev. Stat. 1843, ch. 19, sec. 12.

⁴ Const. 1816, art. 9, sec. 5. Rev. Stat. 1824, ch. 60, sec. 9. Acts 1825-26, ch. 10, sec. 6. Acts 1826-27, ch. 35, sec. 1. Rev. Stat. 1831, ch. 59, sec. 9.

⁵ See footnote 3 herein.

⁶ Acts 1820-21, ch. 11, sec. 1. Rev. L. 1824, ch. 93, sec. 8. Rev. L. 1831, ch. 85, secs. 6, 7. Rev. Stat. 1838, ch. 93, sec. 8. Rev. Stat. 1843, ch. 18, sec. 17.

⁷ Acts. 1851-52, ch. 2, sec. 1.

XXVII. AUDITOR

LEGAL STATUS

The office of auditor was created by an act of 1841, was reestablished by the Constitution of 1851, and has existed in Marshall County since 1841. The auditor is elected for a 4-year term by the voters of the county. Before 1851 he was elected for a 5-year term.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 8 years in any 12-year period.⁴

The auditor must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;⁵ must reside within the county after his election; must not hold any other lucrative office; must not practice law;⁶ must post bond in the amount of \$10,000, to be approved by the board of commissioners and filed with the clerk of the circuit court;⁷ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁸

The auditor receives a regular salary of \$2,800 per year.⁹ In addition to his regular salary he receives an amount between \$60 and \$75 per year (fixed by the Plymouth common council) for services rendered for the city of Plymouth; and from 1907 to 1932, and in 1935 and 1936, he also received \$50 per year for acting as secretary of the board of finance of Marshall County; and from 1919 until 1933 he also received \$5 per day for each

¹ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 2, sec. 1. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. *Jones v. Cavins*, 4 Ind. 305 (1853).

² Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. *Griebel v. State ex rel. Neizer*, 111 Ind. 369, 12 N. E. 700 (1887).

⁴ Const. 1851, art. 2, sec. 11; art. 6, sec. 2.

⁵ *Ibid.*, art. 6, sec. 4. *State ex rel. Jeffries v. Kilroy*, 86 Ind. 118 (1882).

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 1 Rev. Stat. 1852, ch. 8, sec. 9. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *State v. Allen*, 21 Ind. 516 (1863); *Wells v. State ex rel. Peden*, 175 Ind. 380, 94 N. E. 321 (1911).

⁷ Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-3003; Baldwin 5417.

⁸ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1871, ch. 17, sec. 28. Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1941; Burns, 1941 suppl., 49-1021; Baldwin, 1941 suppl., 7534-1.

day he actually served as a member of the county board of review.¹⁰ He is not now entitled to retain, as compensation for himself, any fees which he collects.¹¹

For sufficient legal grounds the auditor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹² If the auditor is convicted of a felony the judgment of conviction must declare the office vacant.¹³

Any vacancy in the office of auditor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an auditor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁴

The auditor may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes their salaries, which must be not less than \$75 nor more than \$200 per month.¹⁵ The auditor may require any deputy to give bond.¹⁶ The deputies must take the oath required of

¹⁰ Acts 1899, ch. 154, sec. 50. Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 48-1231, 48-1238, 49-1001, 49-1004; Baldwin 11412, 11417, 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Board of County Comrs., v. Johnson, 127 Ind. 238, 26 N. E. 821 (1891); Tucker v. State ex rel. Board of County Comrs., 163 Ind. 403, 71 N. E. 140 (1904); Board of County Comrs., v. Crowe, 214 Ind. 437, 446 (two cases), 14 N. E. (2d) 903, 907, 15 N. E. (2d) 1016 (1938). Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

¹¹ Acts 1933; Burns 49-1005; Baldwin 7535. Workman v. State ex rel. Board of County Comrs., 165 Ind. 42, 73 N. E. 917 (1905).

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Douglass v. State ex rel. Wright, 31 Ind. 429 (1869). Gemmer v. State ex rel. Stephens, 163 Ind. 150, 71 N. E. 748 (1904). Op. Atty. Gen. 1936, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹⁵ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

the auditor, may perform all the official duties of the auditor, and are subject to the same regulations and penalties.¹⁷ The auditor may remove such deputies and assistants at any time and is responsible for their official acts.¹⁸

Most of the early duties of the auditor were transferred to him from the clerk of the circuit court,¹⁹ and included the clerk's previous duties as clerk of the board doing county business,²⁰ as member of the boards performing duties similar to those of the present county board of review,²¹ and duties concerning elections,²² taxation, finance, county business,²³ and selection of petit jurors and grand jurors.²⁴

From 1836 until 1852 Marshall County had a county agent whose duties (stated in a separate essay) were transferred to the auditor in 1852.²⁵

FUNCTIONS AND RECORDS

The auditor is the financial agent of the county and the routine administration of county affairs centers in his office, through which all financial transactions are conducted, of which he keeps records.

¹⁷ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

¹⁹ Acts 1840-41 (general), ch. 2, sec. 54. Jones v. Cavins, 4 Ind. 305 (1853).

²⁰ Acts 1816-17, ch. 15, sec. 6. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. L. 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

²¹ Acts 1817-18 (general), ch. 42, sec. 12. Rev. L. 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. L. 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18.

²² Acts 1816-17, ch. 9, secs. 12-14, 16, 19; ch. 14, sec. 4. Rev. Stat. 1838, ch. 32, secs. 18, 19. Acts 1834-35 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 45, sec. 8. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

²³ Acts 1815, ch. 5, secs. 5, 13, 17; ch. 10, secs. 1-3. Rev. L. 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 29, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 174, sec. 1. Acts 1834-35 (general), ch. 10, sec. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

²⁴ Acts 1841-42 (general), ch. 45, sec. 6. 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

²⁵ See the essay entitled "County Agent (1836-52)."

He keeps a fee and cash book,²⁶ a monthly balance record, and a record of receipts, appropriations, and disbursements.²⁷ He keeps separate accounts for each specific item of appropriation by the county council²⁸ and an account current, with the treasurer, of county funds.²⁹

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report to the auditor showing the total amount of cash payments received by the treasurer during the month and the respective accounts to which such payments are applied. The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for two years, and the auditor enters such lists in his register of receipts and issues a quietus for the items of such lists which have been paid over to the treasurer.³⁰

Funds in the county treasury are disbursed on warrants drawn by the auditor on the county treasurer.³¹ The auditor publishes a call for redemption of interest-bearing warrants, when money is available therefor.³² Treasurer's receipts for payments other than for taxes are deposited by the payers with the auditor, who issues quietuses therefor.³³ All redeemed

²⁶ Acts 1840-41 (general), ch. 2, sec. 27. Acts 1871, ch. 17, sec. 38. Acts 1891, ch. 194, sec. 124. Acts 1895; Burns 49-1401; Baldwin 7576.

²⁷ Required by order of State Board of Accounts. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

²⁸ Acts 1899; Burns 26-523; Baldwin 5387.

²⁹ Acts 1840-41 (general), ch. 2, sec. 10. 1 Rev. Stat. 1825; Burns 49-3010; Baldwin 5423. Wells v. State ex rel. Board of County Comrs., 22 Ind. 241 (1864).

³⁰ Acts 1841-42 (general), ch. 45, sec. 3. Acts 1871, ch. 17, secs. 20, 23, 27, 31. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

Such lists were entered in the "order book of the board of commissioners" (commonly known as the "commissioners' record") before the State Board of Accounts provided otherwise in 1909. Information obtained from E. P. Brennan, State Examiner, on March 7, 1940, by W. Davis Hamilton.

³¹ Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5366. Acts 1889; Burns 49-3007; Baldwin 5420. 1 Rev. Stat. 1852; Burns 49-3103, 49-3111; Baldwin 5550, 5558. Acts 1937; Burns, 1941 suppl., 61-617; Baldwin, 1937 suppl., 13844-48.

³² Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421.

³³ Rev. Stat. 1843, ch. 7, sec. 77. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3010, 49-3104; Baldwin 5423, 5551.

or canceled warrants are deposited quarterly by the treasurer with the auditor, for permanent filing.⁸⁴

When the auditor draws a warrant he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.⁸⁵ Records of the warrants are kept in the manner prescribed by the State Board of Accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.⁸⁶

Before issuing a warrant or quietus the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.⁸⁷ The action of mandamus lies to compel the auditor to draw a warrant on the county treasury.⁸⁸

On claims allowed by courts for cost of administration of justice,⁸⁹ and on claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant.⁴⁰ But a warrant may be issued to pay a judgment, or for management of the school fund, or for expenses of insanity inquests, or for salaries or other liabilities for specific amounts fixed by law, when no claim therefor has been allowed as aforesaid.⁴¹ The auditor issues warrants

⁸⁴ Rev. Stat. 1843, ch. 7, secs. 79, 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Information obtained from E. P. Brennan, State Examiner, on June 14, 1939, by W. Davis Hamilton.

⁸⁵ Acts 1899; Burns 26-544; Baldwin 5409.

⁸⁶ Rev. Stat. 1843, ch. 7, 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909, Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on August 15, 1939, by W. Davis Hamilton.

⁸⁷ Acts 1909; Burns 60-215; Baldwin 13866.

⁸⁸ Gill v. State ex rel. Board of County Comrs., 72 Ind. 266 (1880).

⁸⁹ Acts 1921, 1935; Burns, 1941 suppl., 4-3'07; Baldwin. 1935 suppl., 1256. Acts 1881 (Spec. Sess.), 1903, 1913, 1927, 1933; Burns 4-3319, 4-3407; Baldwin 1277, 1286. Acts 1921, 1939; Burns, 1941 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300. Acts 1905, Burns 9-1312 to 9-1315; Baldwin 2233 to 2236. 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306. Acts 1999; Burns 26-515, 26-527, 26-816; Baldwin 5379, 5391, 5268. Acts 1931; Burns 26-817, 26-818; Baldwin 5269, 5270. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128. 2 Rev. Stat. 1852; Burns 49-2709, 49-2804; Baldwin 1476, 5406.

⁴⁰ Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911, Burns 26-813, 26-814; Baldwin 5264, 5265.

⁴¹ Acts 1897; Burns 26-809; Baldwin 5257. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5449. Blue v. State ex rel. Powell, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

for allowances, awards, or assistance granted by the county welfare department when approved by the county welfare director. Claim for administrative expenses of the welfare department must be approved by the board of commissioners.⁴² County hospital claims are paid by the auditor upon order of hospital board.⁴³ He issues warrants on the county treasurer for clothing for insane persons of the county committed to a State hospital on requisition of the superintendent thereof, when certified by the clerk of the circuit court.⁴⁴ A warrant not called for within 5 years after the allowance of the claim on which it was drawn may be canceled by the board of commissioners, if not called for after publication of notice.⁴⁵

The auditor manages the school funds held in trust by the county,⁴⁶ with the exception of making loans. The county school fund board (composed of the auditor, clerk of the circuit court, and another person appointed by the judge of the circuit court) make all the loans from those funds.⁴⁷ Whenever a Congressional township is divided by a county line, the auditor makes all adjustments of land, accounts, and distribution of pupils.⁴⁸ The auditor conducts the sale of school lands⁴⁹ (including those previously sold and forfeited by the purchasers thereof).⁵⁰ The auditor issues a quitclaim deed whenever there is a defect in the title of the owner of land in a school section resulting from destruction of public records.⁵¹ He supervises unsold saline lands.⁵²

Funds held by the county in trust for cemetery purposes

⁴² Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14078-24. Op. Atty. Gen. 1936, p. 440.

⁴³ Acts 1917; Burns 22-3218; Baldwin 4519.

⁴⁴ Acts 1917, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4308. *Morris v. State ex rel. Brown*, 96 Ind. 597 (1884).

⁴⁵ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁴⁶ Acts 1855, ch. 86, sec. 155. Acts 1861, ch. 41, secs. 122, 160. Acts 1855, 1907; Burns 28-101, 28-102, 28-105; Baldwin 6499, 6500, 6511.

⁴⁷ Rev. Stat. 1843, ch. 13, sec. 45. Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558. See the essay entitled "County School Fund Board."

⁴⁸ Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510.

⁴⁹ Acts 1865, 1875; Burns 28-122 to 28-124; Baldwin 6553, 6528, 6529.

⁵⁰ Acts 1851-52, ch. 2, sec. 2. Acts 1863, 1865; Burns 28-125, 28-126, 28-129 to 28-133, 28-135 to 28-137, 28-140 to 28-143, 28-145, 28-146; Baldwin 6530, 6531, 6538, 6539, 6534, 6535, 6540, 6542 to 6544, 6547 to 6550, 6552, 6554.

⁵¹ Acts 1915; Burns 28-239; Baldwin 5435.

⁵² 1 Rev. Stat. 1852; Burns 62-201; Baldwin 15255.

are managed and loaned by the auditor in the manner provided by law for school funds.⁵³

Annually the auditor reports to the State Examiner the financial condition of the county and the school funds charged to it.⁵⁴

Formerly the board of commissioners met in the auditor's office and audited the warrants of all township trustees in the county. These warrants and the board's decision thereon were registered by the auditor in a book kept for that purpose.⁵⁵

The auditor keeps an account with each township showing expenditures and tax levies for poor relief, keeps reports of public welfare officials, and keeps records of county welfare funds.⁵⁶

A copy of the annual report (accompanied by vouchers) of each township trustee to the township advisory board is filed in the auditor's office.⁵⁷ Annually the township trustees report to the auditor the amount of claims in the several townships for livestock, fowls, or game destroyed or damaged by dogs; and the auditor annually reports to the Auditor of State the amount of all such claims remaining unpaid for lack of funds.⁵⁸ Quarterly each county official reports to the auditor all humane fund fees collected by him.⁵⁹

The auditor compiles budget estimates made by the county officers and boards; keeps them on file for 1 month subject to inspection by any taxpayer; and submits them with his recommendations to the county council at its annual meeting.⁶⁰

In each township having a population not exceeding 5,000 (all townships except Center), the office of township assessor

⁵³ Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674.

⁵⁴ Acts 1909; Burns 60-204; Baldwin 13857.

⁵⁵ Acts 1897, ch. 144, secs. 1, 2.

⁵⁶ Acts 1895, ch. 120, sec. 2. Acts 1897, ch. 151, sec. 1 (repealed by Acts 1901, ch. 147, sec. 39). Acts 1901, ch. 147, secs. 11, 12, 19, 20 (all repealed by Acts 1935, ch. 116, sec. 38). Acts 1907, ch. 161, sec. 1 (repealed by Acts 1935, ch. 116, sec. 38). Acts 1935; Burns, 1941 suppl., 52-158; Baldwin, 1935 suppl., 13320-15. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1402; Baldwin, 1937 suppl., 14078-114.

⁵⁷ Acts 1899, 1901; Burns 65-318; Baldwin 16075.

⁵⁸ Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1937; Burns, 1941 suppl., 16-327; Baldwin, 1937 suppl., 3811-11.

⁵⁹ Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1913; Burns 9-2502, 9-2503; Baldwin 3803, 3804. Acts 1909; Burns 60-214; Baldwin 13865.

⁶⁰ Acts 1899; Burns 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.⁶¹

The auditor certifies to the city officials the number of taxable polls therein,⁶² and adds omitted polls to the tax duplicate.⁶³

The auditor takes a very important part in the administration of the property tax laws. Annually the township assessors file with the auditor all returns of real and personal property made by them, together with all assessment lists, schedules, statements, maps, and other books and papers used by them in making such returns; and the county assessor obtains the same from the auditor to perform the county assessor's duties, but returns them to the auditor for permanent filing.⁶⁴ If a taxpayer refuses to make a personal property tax return or an oath required by law in connection with the assessment of personal property, the auditor adds 50 percent to the personal property valuation returned by the assessor.⁶⁵ If a landowner fails to furnish a list of lands and improvements within 5 days after a township assessor has so requested, the auditor must add 25 percent to the valuation of any lands or improvements listed by the assessor and which were not assessed the previous year.⁶⁶ The auditor assesses omitted property, after giving notice to the taxpayer, but cannot increase property assessment valuations made by assessors even if purposely undervalued.⁶⁷ For the purpose of the listing

⁶¹ Acts 1933; Burns 64-1031; Baldwin 15664.

⁶² Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

⁶³ Acts 1919; Burns 64-2102; Baldwin 15803.

⁶⁴ Rev. Stat. 1843, ch. 12, secs. 28, 41. Acts 1850-51 (general), ch. 5, secs. 12, 19; ch. 9, secs. 5, 8. Acts 1858 (Spec. Sess.), ch. 2, sec. 20. Acts 1891, ch. 99, secs. 101, 105. Acts 1919; Burns 64-1023, 64-1029, 64-1102; Baldwin 15669, 15694, 15698. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Information obtained from E. P. Brennen, State Examiner, on May 18, 1939, by W. Davis Hamilton.

⁶⁵ Acts 1919; Burns 64-610; Baldwin 15578.

⁶⁶ Acts 1919; Burns 64-1008; Baldwin 15674.

⁶⁷ Acts 1840-41 (general), ch. 1, sec. 9. Acts 1889, ch. 183, sec. 1. Acts 1919; Burns 64-1402; Baldwin 15739. Scott v. Knightstown, 84 Ind. 108 (1882); Lang v. Clapp, 103 Ind. 17, 2 N. E. 197 (1885); Vandercook v. Williams, 106 Ind. 345, 1 N. E. 619 (1885); Williams v. Segur, 106 Ind. 368, 1 N. E. 707 (1885); McKen v. Haskell, 108 Ind. 97, 8 N. E. 901 (1886); Board of County Comrs. v. Senn, 117 Ind. 410, 20 N. E. 276 (1889); Florer v. Sherwood, 128 Ind. 495, 28 N. E. 71 (1891); Hennel v. Board of County Comrs., 132 Ind. 32, 31 N. E. 462 (1892); Florer v. Sheridan,

and assessment of omitted property, the auditor may, on filing proper affidavit in the circuit court and obtaining a writ directed to the sheriff, inspect the books and papers of taxpayers.⁶⁸ He receives assessors' reports concerning efforts to conceal property from taxation and transmits the same to the board of review.⁶⁹ Acting for the county board of review, the auditor gives notice to taxpayers in order that the board may assess omitted property or raise valuations.⁷⁰ Appeals from the county board of review to the State Board of Tax Commissioners are usually heard in the office of the auditor.⁷¹ Formerly the auditor annually notified all township assessors to meet in the auditor's office to agree on a uniform rate of assessment.⁷² Formerly railroad companies annually filed with the auditor, for taxation purposes, complete inventories of assets.⁷³

The auditor annually makes out, and delivers to the township assessors, lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.⁷⁴ The auditor keeps a record of all lands classified by the State Forester as "forest plantations" or "native forest lands" to obtain special rules or rates for tax assessments.⁷⁵

137 Ind. 28, 36 N. E. 365 (1894); *Cummings v. Stark*, 138 Ind. 94, 34 N. E. 444 (1894); *Thiebaud v. Tait*, 138 Ind. 238, 36 N. E. 525 (1894); *Eaton v. Union County Nat. Bank*, 141 Ind. 136, 40 N. E. 668 (1895); *Buck v. Miller*, 147 Ind. 586, 45 N. E. 647 (1896); *Miller v. Vollmer*, 153 Ind. 26, 53 N. E. 949 (1899); *Crowder v. Riggs*, 153 Ind. 158, 53 N. E. 1019 (1899); *Parkison v. Thompson*, 164 Ind. 609, 73 N. E. 109 (1905); *Darnell v. State*, 174 Ind. 143, 90 N. E. 769 (1910).

⁶⁸ Acts 1891, ch. 99, sec. 34. Acts 1919; Burns 64-1026; Baldwin 15549.

⁶⁹ Op. Atty. Gen. 1892, p. 70.

⁷⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁷¹ Acts 1919, 1935; Burns, 1941 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State Board of Tax Commissioners, *Tax Rule 6*.

⁷² Acts 1889, ch. 108, sec. 1 (repealed by Acts 1891, ch. 99, sec. 259).

⁷³ Acts 1891, ch. 99, sec. 83.

⁷⁴ Acts 1840-41 (general), ch. 1, sec. 4; ch. 2, sec. 12. Acts 1841-42, ch. 60, sec. 4. Rev. Stat. 1843, ch. 12, sec. 27. Acts 1858 (Spec. Sess.), ch. 2, sec. 5. Acts 1891, ch. 99, sec. 93. Acts 1919, 1937; Burns, 1941 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

⁷⁵ Acts 1899, ch. 256, sec. 9. Acts 1921; Burns 32-304, 32-306; Baldwin 15517-4, 15517-6.

For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. No such conveyance can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.⁷⁶ On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.⁷⁷ The auditor corrects on the tax books any errors as to description of property and names of owners.⁷⁸

Forms and instructions for taxation purposes are prescribed by the State Board of Tax Commissioners and delivered to the auditor.⁷⁹ The auditor furnishes the township assessors with all necessary books and blanks for their use in making assessment of real and personal property.⁸⁰ Assessments of omitted real estate by township assessors are filed with the auditor.⁸¹ The auditor makes assessment of any newly platted land additions to any city or town.⁸²

The auditor certifies as to the required number of signers of petitions filed by groups of taxpayers with the State Board of Tax Commissioners to obtain a reassessment of real estate.⁸³

Sworn statements and applications to obtain tax exemptions authorized by law (including mortgage deductions) are filed with the auditor, who refers them to the county board of review for approval.⁸⁴

⁷⁶ Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

⁷⁷ Acts 1921; Burns 64-519; Baldwin 14777.

⁷⁸ Acts 1919, 1825, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685.

⁷⁹ Acts 1919; Burns 64-2803; Baldwin 15866. *Thirty-ninth Annual Conference of State Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139.

⁸⁰ Acts 1858 (Spec. Sess.), ch. 2, sec. 23. Acts 1891, ch. 99, secs. 53, 101. Acts 1903, ch. 29, sec. 32. Acts 1899; Burns 26-543; Baldwin 5408. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434. Acts 1919; Burns 64-1007, 64-1016; Baldwin 15672, 15682.

⁸¹ Acts 1840-41 (general), ch. 2, sec. 12. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

⁸² Acts 1919; Burns 64-1027; Baldwin 15691.

⁸³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(a); Baldwin, 1837 suppl., 15685(a).

⁸⁴ Tax exemptions in general. Acts 1937; Burns, 1941 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

Annually the auditor apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.⁸⁵ After the county council, at its annual meeting, adopts a budget, establishes a tax rate, and makes tax levies for the succeeding calendar year, the auditor schedules the rates for the county and the several municipal corporations therein, verifies the figures and calculations, and reports the levies to the State Board of Tax Commissioners.⁸⁶ The decision of the State Board of Tax Commissioners on an appeal from the county council's action in adopting budgets and tax levies is certified to the auditor and he certifies it to the taxing units interested therein.⁸⁷

Annually each municipal corporation of the county files with the auditor a statement of tax levies and rates for the ensuing year, fixed by such municipal corporation, and copies of the budgets on which such levies are based.⁸⁸ At the annual meeting of the county board of tax adjustment, the auditor lays before the board these budgets, tax levies, and rates.⁸⁹ If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of tax levies and rates within the statutory limits, the auditor calculates and fixes the rates and certifies his action to each municipal corporation.⁹⁰ The decision of the State Board of Tax Commissioners on an appeal from the action of the board of tax adjustment is certified to the auditor.⁹¹

The auditor certifies to the State Board of Tax Commissioners all emergency appropriations made by the county

Disabled veterans. Acts 1927; Burns 64-206; Baldwin 10987.

Mortgage deductions. Acts 1899, ch. 190, secs. 2, 3. Acts 1919, 1939; Burns, 1941 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. *Thirty-eighth Annual Conference of State Tax Board*, pp. 64-74.

⁸⁵ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

⁸⁶ Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.). 1921, 1927, 1937; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

⁸⁷ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

⁸⁸ Acts 1933; Burns 64-302; Baldwin 15893. Acts 1937; Burns, 1941 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

⁸⁹ Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁹⁰ Acts 1937; Burns, 1941 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

⁹¹ Acts 1937; Burns, 1941 suppl., 64-314; Baldwin, 1937 suppl., 15897-8.

council, together with tax levies based thereon.⁹²

After the assessments, budgets, tax rates, and tax levies have been made, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate, and a complete tax abstract of all property listed in each township, city, and town. He keeps a copy of the abstract in his office and delivers another copy thereof to the Auditor of State.⁹³ Semiannually the county auditor delivers to the county treasurer and to the treasurer of each city, town, and township in the county, a complete list of all persons reported as delinquent in the payment of taxes, as shown by the tax duplicate.⁹⁴ Formerly a separate list of delinquent taxes was delivered by the county auditor to the Auditor of State, but now, and for many years last past, the only lists so delivered are those that are set forth in the tax abstract.⁹⁵

The auditor annually prepares and records in a book, provided for that purpose, a list of lands delinquent for taxes, charges the interest and penalty required by law, publishes and posts the list with a notice of tax sale, includes a copy of the notice in his record, and certifies on his record the time and manner of such publication and posting.⁹⁶ The auditor attends the treasurer's tax sales of delinquent lands, keeps a record of the sales, and issues certificates to the purchasers.⁹⁷ The auditor acts as arbiter in case of partial redemption of lands from tax sale.⁹⁸ When lands are redeemed

⁹² Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

⁹³ Acts 1840-41 (general), ch. 1, secs. 12, 14; ch. 2, secs. 17, 22. Rev. Stat. 1843, ch. 12, secs. 44, 50, 51, 133. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745. Standard Oil Co. v. Bretz, 98 Ind. 231 (1884); Adams v. Davis, 109 Ind. 10, 9 N. E. 162 (1866); Smith v. Smith, 159 Ind. 388, 65 N. E. 183 (1902).

⁹⁴ Rev. Stat. 1843, ch. 12, sec. 68. Acts 1911, ch. 234, sec. 1. Acts 1919; Burns 64-1505. Baldwin 15767.

⁹⁵ Rev. Stat. 1843, ch. 12, sec. 68. Information obtained from Frank G. Thompson, Auditor of State, on June 29, 1939, by W. Davis Hamilton.

⁹⁶ Acts 1840-41 (general), ch. 2, secs. 26, 28-30. Acts 1879 (Spec. Sess.), ch. 96, sec. 3. Acts 1883, ch. 76, sec. 1. Acts 1919; Burns 64-2201; Baldwin 15806. Acts 1919, 1931, 1937; Burns, 1941 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Abbott v. Edgerton, 53 Ind. 196 (1876); Stropes v. Board of County Comrs., 72 Ind. 42 (1880).

⁹⁷ Acts 1840-41 (general), ch. 2, secs. 33, 34. Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. 1 Rev. Stat. 1852, ch. 6, sec. 177. Acts 1919; Burns 64-2209, 64-2210; Baldwin 15816, 15817. Gable v. Seiben, 137 Ind. 155, 36 N. E. 844 (1894).

⁹⁸ Acts 1919; Burns 64-2308; Baldwin 15826.

from tax sale, he issues a certificate of redemption and keeps a record of all redemptions.⁹⁹ The auditor executes all tax deeds of land, and keeps a record thereof.¹⁰⁰ On authorization by the board of commissioners he issues a warrant for a refund to persons paying illegal or erroneous taxes and also to purchasers at illegal tax sales.¹⁰¹ Annually a list of lands offered at tax sale 3 years successively, on which there was no bid equal to the amount of taxes due thereon, is prepared by the treasurer, certified by the auditor, and delivered to the prosecuting attorney.¹⁰²

The State's share of taxes collected by the county treasurer is disbursed to the proper State officers on warrants drawn by the auditor on the county treasury.¹⁰³

The auditor certifies to the treasurer the amount of excise tax due from financial institutions.¹⁰⁴ For excise tax purposes, each financial institution delivers to the auditor monthly statements showing the number of its shares, amount of deposits, and kindred information.¹⁰⁵ The auditor is authorized to examine the records of the recorder and clerk of the circuit court to ascertain whether all persons have paid intangible taxes; and for this purpose may interrogate any person under oath and examine private records of such person.¹⁰⁶

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor.¹⁰⁷

The auditor issues licenses for peddlers, shows, theaters,¹⁰⁸

⁹⁹ Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919; Burns 64-2313; Baldwin 15831

¹⁰⁰ Acts 1840-41 (general), ch. 2, secs. 37, 44. Acts 1919; Burns 64-2403 to 64-2409; Baldwin 15811, 15833 to 15838. Reid v. State ex rel. Thompson, 74 Ind. 252 (1881); Smith v. Kyler, 74 Ind. 575 (1881); Woolen v. Rockafeller, 81 Ind. 208 (1881); Lancaster v. De Hadway, 97 Ind. 565 (1884); Rowe v. Peabody, 102 Ind. 198, 1 N. E. 353 (1885).

¹⁰¹ Acts 1919; Burns 64-1407, 64-2411, 64-2819; Baldwin 15744, 15840, 15881. Acts 1923; Burns 64-2823; Baldwin 15883. Wolfe v. State ex rel. Kennard, 90 Ind. 16 (1883).

¹⁰² Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1919; Burns 64-1518; Baldwin 15772.

¹⁰³ Acts 1877, ch. 90, sec. 1. Acts 1907, 1911; Burns 61-600; Baldwin 13824 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1937; Burns, 1941 suppl., 61-606; Baldwin, 1937 suppl., 15844-47.

¹⁰⁴ Acts 1933; Burns 64-810; 15591.

¹⁰⁵ Acts 1933, 1935; Burns, 1941 suppl., 64-807; Baldwin, 1935 suppl., 15588.

¹⁰⁶ Acts 1933; Burns 64-917; Baldwin 15915.

¹⁰⁷ Acts 1897, ch. 119. Acts 1925, ch. 144 (repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1935; Burns 16-301, 16-302; Baldwin 3826, 3827. Acts 1937; Burns, 1941 suppl., 16-317; Baldwin, 1937 suppl., 3811-1. Finerty v. State ex rel. School City of Gary, 213 Ind. 470, 12 N. E. (2d) 941 (1938).

¹⁰⁸ 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

transient merchants,¹⁰⁹ and public warehouses.¹¹⁰ He approves and files bonds of ferrymen¹¹¹ and records their licenses.¹¹² Formerly he issued licenses for the sale of liquor¹¹³ and foreign merchandise¹¹⁴ as directed by the board of commissioners, and filed remonstrances against issuance of saloon licenses by the board of commissioners.¹¹⁵

The auditor prepares the ditch duplicate showing special assessments against lands for construction or repair of ditches and drains,¹¹⁶ and releases such liens after expiration or payment thereof.¹¹⁷ Assessments for levees and flood gates¹¹⁸ and for the cutting or eradicating of Canada thistles¹¹⁹ are placed on the tax duplicate by him. Formerly petitions for drainage and levee improvements were filed with the auditor and he gave notice to viewers and kept a record of all proceedings concerning such improvements.¹²⁰

The board doing county business has always had power to

¹⁰⁹ Acts 1901; Burns 42-402; Baldwin 10491. The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

¹¹⁰ Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

¹¹¹ Acts 1817-18 (general), ch. 45, sec. 8. Rev. L. 1824, ch. 42, sec. 8. Rev. L. 1831, ch. 38, sec. 5. Acts 1881 (Spec. Sess.); Burns 36-2504; Baldwin 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2607; Baldwin 7697.

¹¹² Acts 1881 (Spec. Sess.); Burns 36-2610; Baldwin 7700.

¹¹³ Acts 1817-18 (general), ch. 47, secs. 2, 3. Acts 1820-21, ch. 36, secs. 1, 2. Rev. L. 1824, ch. 107, secs. 1, 3. Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. Padgett v. State, 93 Ind. 396 (1884).

¹¹⁴ Acts 1816-17, ch. 17, sec. 4. Acts 1817-18 (general), ch. 44, sec. 4. Rev. L. 1824, ch. 23, sec. 3. Rev. L. 1831, ch. 2, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7 *et seq.* Rev. Stat. 1843, ch. 12, sec. 165 *et seq.*

¹¹⁵ Acts 1905, ch. 6, sec. 1.

¹¹⁶ Acts 1881 (Spec. Sess.), ch. 43, sec. 5 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1933; Burns 27-134; Baldwin 5770. *Storms v. Stevens*, 104 Ind. 46, 3 N. E. 401 (1885); *Lockwood v. Ferguson*, 105 Ind. 380, 5 N. E. 3 (1886); *Board of County Comrs. v. Fahlor*, 114 Ind. 176, 15 N. E. 830 (1888).

¹¹⁷ Acts 1941; Burns, 1941 suppl., 27-140; Baldwin, 1941 suppl., 5771-1.

¹¹⁸ Acts 1903; Burns 27-703; Baldwin 5841.

¹¹⁹ Acts 1929, 1937; Burns, 1941 suppl., 15-904; Baldwin, 1937 suppl., 3719.

¹²⁰ Acts 1881 (Spec. Sess.), ch. 44, sec. 2 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1891, ch. 196, secs. 2, 24. Acts 1897, ch. 138, secs. 1, 4. *Simonton v. Hays*, 88 Ind. (1882); *Vizzard v. Taylor*, 97 Ind. 90 (1884); *White v. Fleming*, 114 Ind. 560, 16 N. E. 487 (1888); *Cooper v. Ray*, 148 Ind. 328, 47 N. E. 668 (1897).

establish, construct, repair, and vacate county roads.¹²¹ The auditor, being clerk of said board, has, accordingly, kept a record of road proceedings.¹²² Road petitions are filed with the auditor for presentment to the board of commissioners.¹²³ When road viewers are appointed by the board, the auditor notifies the viewers and the county surveyor of their appointment and the time and place for their meeting.¹²⁴ Reports of road viewers are filed with the auditor and he enters road assessments on the tax duplicate or special assessment roll.¹²⁵ The county highway supervisor files with the auditor requisitions for all tools, implements, supplies, materials, and equipment needed for county roads.¹²⁶ Formerly the auditor annually delivered to the road supervisor a list of landowners of the county¹²⁷ and annually delivered to each township trustee a list of all road taxes assessed against each individual in the township.¹²⁸

Certified copies of the official oaths of all officers appointed by the board of commissioners, together with certified copies of oaths of such township officers (except justices of the peace and constables) as required by the board, are filed with the auditor.¹²⁹ When a bond is required of any such officer, it also is filed with the auditor.¹³⁰ The

¹²¹ Acts 1807, ch. 44, secs. 1-24. Acts 1811, ch. 29, secs. 1, 2. Acts 1815, ch. 5, secs. 1-20. Acts 1816-17, ch. 8, secs. 1, 4-8, 10, 11, 15, 22. Acts 1817-18 (general), ch. 43, secs. 1, 23. Acts 1818-19, ch. 11, secs. 2, 7, 11, 12. Acts 1819-20, ch. 55, secs. 31, 33. Rev. L. 1824, ch. 87, secs. 1, 4-7, 9, 12, 15, 24, 25. Rev. L. 1831, ch. 20, sec. 22; ch. 82, secs. 1, 4, 6, 12, 14, 28, 47. 1 Rev. Stat. 1852, ch. 48. Acts 1881 (Spec. Sess.), chs. 61-64. Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 99; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

¹²² Acts 1921; Burns 36-1451; Baldwin 8954. Acts 1905; Burns 36-1222; Baldwin 8823.

¹²³ Acts 1919, 1921; Burns 36-204; Baldwin 8862.

¹²⁴ Acts 1895, ch. 11, sec. 1. Acts 1905, 1907; Burns 36-1301; Baldwin 8787. Turpin v. Eagle Creek & L. W. L. G. R. Co., 48 Ind. 45 (1874).

¹²⁵ Acts 1869 (Spec. Sess.), ch. 35, sec. 3 (repealed by Acts 1929, ch. 215, sec. 73). Acts 1877, ch. 46, sec. 3. Acts 1905, 1907; Burns 36-1301, 36-1305; Baldwin 8787, 8791. Acts 1921; Burns 36-1412; Baldwin 8915. Florer v. McAfee, 135 Ind. 540, 35 N. E. 277 (1893); Smyth v. State ex rel. Braun, 158 Ind. 332, 62 N. E. 449 (1902).

¹²⁶ Acts 1935; Burns, 1941 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1.

¹²⁷ Rev. Stat. 1843, ch. 16, sec. 105.

¹²⁸ Acts 1883, ch. 56, sec. 20.

¹²⁹ Rev. Stat. 1843, ch. 4, sec. 84. 1 Rev. Stat. 1852; Burns 49-104; Baldwin 13057.

¹³⁰ Rev. Stat. 1843, ch. 4, secs. 88, 89. 1 Rev. Stat. 1852; Burns 49-104, 49-105; Baldwin 13057, 13063.

board of commissioners meets in the office of the auditor, at any time without notice or precept, for the purpose of approving official bonds which are required to be approved by the board.¹³¹ The official bond of the county assessor is approved by and filed with the auditor; and the assessor's official oath is administered by the auditor and endorsed on said bond.¹³² The official bond of each township trustee is approved by the auditor.¹³³

The auditor is clerk of the board of commissioners,¹³⁴ the county council,¹³⁵ and the county board of tax adjustment;¹³⁶ and he is secretary of the board of finance.¹³⁷ He is also a member and secretary of the county board of review¹³⁸ and a member of the county school fund board.¹³⁹ From 1841 to 1890 he was a member of the boards performing duties analogous to those of the present county board of review.¹⁴⁰ Formerly the auditor was a member of the election board under the local option liquor laws,¹⁴¹ was a member of the district board of equalization,¹⁴² and was clerk of the old-age pension board.¹⁴³ The auditor keeps a record of all the boards of which he is a clerk or secretary.

When the county borrows money, the bonds or notes are executed by the county commissioners and are attested, advertised,

¹³¹ Acts 1851-52; Burns 49-123; Baldwin 13093.

¹³² Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

¹³³ Acts 1859, 1889; Burns 65-102; Baldwin 16060. Acts 1915; Burns 65-103; Baldwin 16061. *Copeland v. State ex rel. Davis*, 126 Ind. 51, 25 N. E. 866 (1890).

¹³⁴ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53. Acts 1855, ch. 37, sec. 1. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

¹³⁵ Acts 1899; Burns 26-509; Baldwin 5373.

¹³⁶ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

¹³⁷ Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

¹³⁸ Acts 1891, ch. 99, secs. 114, 116. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹³⁹ Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

¹⁴⁰ Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18. 1 Rev. Stat. 1852, ch. 6, sec. 91; ch. 35, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1877, ch. 89, sec. 1. Acts 1831 (Spec. Sess.), ch. 96, sec. 129.

¹⁴¹ Acts 1908 (Spec. Sess.), ch. 2, sec. 5. Acts 1911, ch. 7, sec. 5. *Kunkle v. Coleman*, 174 Ind. 315, 92 N. E. 61 (1910).

¹⁴² 1 Rev. Stat. 1852, ch. 35, secs. 5-7. This board was abolished by Acts 1872 (Spec. Sess.), ch. 37.

¹⁴³ Acts 1933, ch. 36, secs. 2, 9, 12 (all repealed by Acts 1836 (Spec. Sess.), ch. 3, sec. 129).

and sold by the auditor. Printed copies of the ordinance authorizing the bond issue, together with specifications describing the bonds, are kept on file in the auditor's office, open to public inspection.¹⁴⁴ If the amount of a bond issue exceeds \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified by the auditor to the State Board of Tax Commissioners for hearing and disposition.¹⁴⁵ Contracts for the extension of time for payment of county or township bonds by issuance of "redemption bonds" are executed by the county commissioners and attested by the auditor, and one executed copy is kept by the auditor; and the auditor keeps a record of redemption bonds issued in pursuance of such contract.¹⁴⁶

The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.¹⁴⁷

Claims against the county (for consideration by the board of commissioners) are filed with the auditor and presented by him to the board of commissioners.¹⁴⁸ He makes certificates showing quality and price in compliance with the contract.¹⁴⁹ He publishes all such claims and allowances thereon and also all allowances against the county made by courts.¹⁵⁰ On appeals from decisions of the board of commissioners, the auditor approves the appeal bond, prepares the transcripts of proceedings, and transmits the bond, transcript, and all documents to the reviewing court.¹⁵¹

Scalps of woodchucks, wolves, and foxes; heads of owls, hawks, and crows; and eggs of crows are presented to the auditor with the statutory affidavits for the purpose of obtaining bounties thereon.¹⁵²

¹⁴⁴ Acts 1899, 1921; Burns 76-540; Baldwin 5405.

¹⁴⁵ Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

¹⁴⁶ Acts 1933; Burns 26-1015 to 26-1017; Baldwin 5353 to 5355.

¹⁴⁷ Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

¹⁴⁸ Acts 1879 (Spec. Sess.); Burns 26-805; no Baldwin.

¹⁴⁹ Acts 1899; Burns 26-538; Baldwin 5403.

¹⁵⁰ Acts 1875, ch. 18, sec. 1. Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817 to 26-819; Baldwin 5269 to 5271. Cheney v. State ex rel. Risk, 165 Ind. 121, 74 N. E. 892 (1905).

¹⁵¹ 1 Rev. Stat. 1852; Burns 26-902, 26-903; Baldwin 5278, 5279. Scotten v. Divelbiss, 46 Ind. 301 (1874); Shirk v. Moore, 96 Ind. 199 (1884); Strebin v. Lavengood, 163 Ind. 478, 71 N. E. 494 (1904); Smith v. Gustin, 169 Ind. 42, 81 N. E. 722 (1907).

¹⁵² Acts 1875; Burns 26-1101; Baldwin 5288. Acts 1883; Burns 26-1102; Baldwin 5289. Acts 1911; Burns 26-1103; Baldwin 3802.

Specifications, bids, and contracts for materials and supplies required for county officials for the ensuing year are placed on file and kept in the auditor's office where they are open to public inspection.¹⁵³

When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them in the office of the auditor of each of such counties. The auditor and board of commissioners in each county then examines the returns, and if the proposed change of boundaries was carried at the election, the auditor enters an order to that effect in the order book of the board of commissioners.¹⁵⁴ The auditor makes a certificate of tax levies for the purpose of raising funds from the detached territory to pay the debts of the county from which it was detached.¹⁵⁵

The township trustees quadrennially meet in the office of the auditor for the purpose of electing a county superintendent of schools. After notice is given by the auditor, the trustees meet there at any time to fill a vacancy in such office. The auditor is clerk of the election and keeps a record thereof. In case of a tie vote the auditor casts the deciding vote. The person elected files his oath of office and official bond with the auditor, who approves the bond. The auditor reports the election to the State Superintendent of Public Instructions.¹⁵⁶

The Auditor of State prepares maps or plats of the lands belonging to the State and located in the county, known as the swamplands, indemnity lands, saline lands, and the lands escheated or forfeited to the State, and delivers them to the county auditor, who causes an appraisal thereof, registers the lands in a book kept for that purpose, and records the sales of such lands.¹⁵⁷

The auditor must preserve the documents, books, papers,

¹⁵³ Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

¹⁵⁴ Acts 1875; Burns 26 201; Baldwin 5032.

¹⁵⁵ Acts 1875; Burns 26-204, 26-205; Baldwin 5035, 5036.

¹⁵⁶ Acts 1873, ch. 25, sec. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State ex rel. Nebecker v. Sutton, 99 Ind. 300 (1884); State ex rel. Laughlin v. Porter, 113 Ind. 79, 14 N. E. 883 (1888); State ex rel. Williams v. Edwards, 114 Ind. 581, 16 N. E. 627 (1888); State ex rel. Drummond v. Dillon, 125 Ind. 65, 25 N. E. 136 (1890); State ex rel. Morris v. McFarland, 149 Ind. 266, 49 N. E. 5 (1898).

¹⁵⁷ Acts 1825, ch. 47, sec. 2. Rev. L. 1831, ch. 11, sec. 6. Rev. L. 1838, ch. 10, secs. 6, 7. 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

and maps deposited in his office.¹⁵⁸ If any map or plat in his office becomes worn or defaced, he makes a new copy thereof. He takes copies of maps or plats in the recorder's office that may be necessary for the discharge of the auditor's official duties.¹⁵⁹

Under former laws the auditor prepared blank forms of poll books and election returns, and delivered them to the inspectors of the election precincts;¹⁶⁰ delivered election supplies to the registration inspector of each precinct;¹⁶¹ kept the completed registration books and forms in his office, open to public inspection;¹⁶² filed in his office petition for elections under the local option liquor laws;¹⁶³ and delivered to the clerk of the circuit court the various papers involved in election contests heard by the board of commissioners, together with transcripts of the proceedings of the board.¹⁶⁴

Each township assessor annually prepares lists of all persons in his township who are deaf, dumb, blind, idiotic, or insane, and delivers the lists to the auditor, who reports them to the State Department of Public Welfare.¹⁶⁵

Formerly the township assessors were required to enumerate the families of soldiers, seamen, and marines in active service, and of those who died or were disabled in active service, and deliver the lists to the auditor.¹⁶⁶ The township trustees formerly made enumerations of children between the ages of 5 and 21 years and delivered the returns to the

¹⁵⁸ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 50, ch. 15, sec. 34. Acts 1883, ch. 56, sec. 1. Acts 1891, ch. 99, secs. 114, 116. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1899; Burns 26-509; Baldwin 5373. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹⁵⁹ 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

¹⁶⁰ Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

¹⁶¹ Acts 1911, ch. 150, sec. 5 (repealed by Acts 1913, ch. 185, sec. 25).

¹⁶² Acts 1911, ch. 150, sec. 13 (repealed by Acts 1913, ch. 185, sec. 25).

¹⁶³ Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5.

¹⁶⁴ Acts 1816-17, ch. 9, sec. 22. Rev. L. 1831, ch. 33, secs. 8, 9. Rev. Stat. 1843, ch. 5, sec. 103.

¹⁶⁵ Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

The foregoing laws require the report to be made to the State Board of Charities. In 1936 the duties of that Board were transferred to the State Department of Public Welfare. Acts 1936 (Spec. Sess.), ch. 3, sec. 11.

¹⁶⁶ Acts 1865, ch. 40, secs. 2, 3.5. Acts 1923, ch. 4, sec. 1.

auditor, who delivered them to the State Superintendent of Public Instruction.¹⁶⁷

Once every 6 years the township trustees and their assistants enumerate all white male inhabitants of the State over 21 years old.¹⁶⁸ Books and blanks, together with copies of the law requiring such enumerations, are furnished to the township trustees by the auditor.¹⁶⁹ The trustees' returns are filed in the office of the auditor.¹⁷⁰ The auditor examines the returns and corrects (by orders recorded in a separate book) any errors, mistakes, or omissions discovered. For this purpose he may subpoena and question witnesses.¹⁷¹ The auditor then certifies the corrected enumerations to the Auditor of State.¹⁷² Likewise there is an enumeration of colored male inhabitants. Separate lists are made; one is designated "white male inhabitants" and the other "colored male inhabitants."¹⁷³

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.¹⁷⁴

Petitions for condemnation of schoolhouses, as unfit for use for school purposes, are filed with the auditor. The auditor mails and publishes notices of hearings, and calls special joint sessions of the board of commissioners and county council to hold hearings on such petitions.¹⁷⁵

Formerly petitions to have the surveyor removed from office were filed with the auditor for presentment to the

¹⁶⁷ Rev. Stat. 1843, ch. 15, sec. 25. Acts 1846-47 (general), ch. 94, sec. 2. Acts 1855, ch. 86, sec. 26.

¹⁶⁸ Const. 1816, art. 3, sec. 2. Const. 1851, art. 4, sec. 4. Acts 1853, ch. 41, secs. 1, 2. Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605; Baldwin 7490 to 7494.

¹⁶⁹ Acts 1844-45 (general), ch. 29, sec. 2. Acts 1853, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65-614; Baldwin 7503.

¹⁷⁰ Acts 1844-45 (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

¹⁷¹ Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

¹⁷² Acts 1844-45 (general), ch. 29, sec. 5. Acts 1853, ch. 41, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-611; Baldwin 7500.

¹⁷³ Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

¹⁷⁴ 2 Rev. Stat. 1852, ch. 4, secs. 4, 17, pp. 6, 7. Acts 1881 (Spec. Sess.); Burns 4-3100; Baldwin 1261.

¹⁷⁵ Acts 1921; Burns 28-3002 to 28-3004; Baldwin 6144 to 6146.

board of commissioners.¹⁷⁶ Vacancies in the former office of real estate appraiser were filled through appointment by the auditor.¹⁷⁷

Articles of incorporation of humane societies are filed with the auditor and form the basis for the distribution of humane funds on warrants drawn by him.¹⁷⁸

Formerly every fire insurance company doing business in Indiana, not organized under Indiana laws, was required to make semiannual reports to the auditor showing premiums received by the company for fire insurance on property in the county and showing all losses paid by the company for the last semiannual period.¹⁷⁹ Formerly financial statements of banks were filed with the auditor.¹⁸⁰

Formerly the auditor, as clerk of the board of commissioners, issued old-age pension certificates to applicants approved by the board, and delivered duplicates thereof to the Auditor of State.¹⁸¹

Copies of reports to the State Board of Accounts by its field examiners showing the results of their examinations of county offices are filed with the auditor.¹⁸²

The auditor furnishes all county officials with books, stationery, and blanks required in doing the public business pertaining to the auditor's office.¹⁸³

The auditor, as relator, may sue, in the name of the State, to recover money owing to the county;¹⁸⁴ and the auditor may compromise the suits brought by him and receive the money agreed to be paid.¹⁸⁵

¹⁷⁶ Rev. Stat. 1843, ch. 10, sec. 4.

¹⁷⁷ Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

¹⁷⁸ Acts 1913; Burns 9-2504, 9-2505; Baldwin 3805, 3806.

¹⁷⁹ Acts 1891, ch. 192, sec. 1. On June 16, 1893 this act was held unconstitutional, *Henderson v. London & Lancashire Ins. Co.*, 135 Ind. 23, 34 N. E. 565 (1893).

¹⁸⁰ Acts 1905, ch. 56, sec. 2 (repealed by Acts 1907, ch. 281, sec. 6).

¹⁸¹ Acts 1933, ch. 36, sec. 12 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

¹⁸² Acts 1909; Burns 60-211; Baldwin 13862.

¹⁸³ Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434.

¹⁸⁴ 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Rogers v. Gibson*, 15 Ind. 218 (1860); *Scotten v. State ex rel. Simonton*, 51 Ind. 52 (1875); *Yater v. State ex rel. Board of County Comrs.* 58 Ind. 299 (1877); *Hostetler v. State ex rel. Dean*, 62 Ind. 183 (1878); *Vanarsdall v. State ex rel. Watson*, 65 Ind. 176 (1879); *Gauntt v. State ex rel. Stout*, 81 Ind. 137 (1881); *Heagy v. State ex rel. Forkner*, 85 Ind. 260 (1882); *Demarest v. Holdeman*, 157 Ind. 467, 62 N. E. 17 (1901).

¹⁸⁵ *Cabel v. McCafferty*, 53 Ind. 75 (1876); *Vigo Twp. v. Board of County Comrs.*, 111 Ind. 170, 12 N. E. 305 (1887).

The auditor and his deputies can administer all oaths necessary in the performance of their duties.¹⁸⁶

Forms of various books, blanks, documents, and reports have been prescribed for county auditors by the State Board of Accounts,¹⁸⁷ which was created in 1909.¹⁸⁸ Nearly all of these forms were prescribed in 1910 and 1911, though some changes have been made since then. Most of the books and records required by the State Board of Accounts were specifically required by statute; but the board, under its broad statutory powers, has in some instances required books and records, such as the auditor's monthly balance record, not specifically required by statute. The auditor is not required to keep as many separate records now as he did before 1924, since the State Board consolidated many of his records that year.¹⁸⁹

The auditor must keep all books and records in a fire-proof building when available.¹⁹⁰

RECEIPTS AND DISBURSEMENTS

GENERAL FUNDS

257. MONTHLY FINANCIAL STATEMENT, 1911-. 4 vols. Title varies: Monthly Balance Record, 1911-24, 1 vol. Record of monthly balances of county funds, showing date of balance, name of fund, amounts of receipts and disbursements, and previous and current balance of each fund. Arr. chron. by date of balance. No index. Hdw. 150 pp. 20 x 16 x 1. 3 vols., 1911-36, aud. vt.; 1 vol., 1937-, aud. off.

258. AUDITOR'S FEE AND CASH BOOK, 1910-. 2 vols. Record of fees and cash received by auditor, showing date, amount, and nature of payment; name of payer; and date and amount paid to treasurer. This is a combination of two records formerly kept separately: Register of fees, entry 259; auditor's cashbook, entry 260. Arr. chron. by date of payment. No index. Hdw. 300 pp. 18 x 13 x 3. 1 vol., 1910-21, aud. vt.; 1 vol., 1922-, aud. off.

¹⁸⁶ 1 Rev. Stat. 1852; Burns 49-3013; Baldwin 5427.

¹⁸⁷ A&S 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

¹⁸⁸ A&S 1909; Burns 60-202; Baldwin 13855.

¹⁸⁹ *Ibid.* Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

¹⁹⁰ Rev. Stat. 1843, ch. 7, sec. 22. 1 Rev. Stat. 1852; Burns 26-624, 49-3004; Baldwin 5240, 5418.

259. REGISTER OF FEES, 1888-1909. 2 vols. (1, 2). 1910--in Auditor's Fee and Cash Book, entry 258.

Record of fees received by auditor, showing date, amount, and nature of receipt; name of payer; and date and amount paid to treasurer. Arr. chron. by date of receipt. No index. Hdw. 250 pp. 16 x 12 x 2. 1 vol., Jan. 1, 1888-June 30, 1905, bookroom 1; 1 vol., July 1905, aud. vt.

260. AUDITOR'S CASH BOOK, 1895-1909. 1 vol. 1910--in Auditor's Fee and Cash Book, entry 258.

Record of cash collected by auditor, showing dates of collection and payment to treasurer, name of payer, and total amount collected. Arr. chron. by date of collection. No index. Hdw. 325 pp. 18 x 12 x 2. Aud. vt.

261. AUDITOR'S LEDGER OF RECEIPTS, APPROPRIATIONS AND DISBURSEMENTS, Oct. 1866-1910, 1925-. 6 vols. Title varies: Auditor's Ledger, 1866-1910, 3 vols.

Record of receipts, appropriations, and disbursements, showing amount of appropriation, dates and amounts of receipts and disbursements; warrant and receipt numbers; name of fund; and balance or overdraft. This is a combination of two records intercurrently kept separately: Record of receipts, entry 262; and record of appropriations and disbursements, entry 263. Also contains: Record of receipts and disbursements of school funds, 1925-, entry 282. Arr. by names of funds and chron. thereunder by dates of receipt and disbursement. No index. Hdw. 450 pp. 16 x 16 x 3½. 2 vols., Oct. 1866-99, bookroom 1; 1 vol., 1900-1910, aud. vt.; 3 vols., 1925-, aud. off.

262. RECORD OF RECEIPTS, AUDITOR, 1912-24. 3 vols. 1866-1910, 1925--in Auditor's Ledger of receipts, Appropriations and Disbursements, entry 261.

Record of Receipts of county revenue, showing date, number, and amount of receipt and name of fund. Arr. chron. by date of receipt. No index. Hdw. 80 pp. 16 x 24 x 2. Bookroom 1.

263. RECORD OF APPROPRIATIONS AND DISBURSEMENTS, 1912-24. 3 vols. 1866-1910, 1925--in Auditor's Ledger of Receipts, Appropriations and Disbursements, entry 261.

Record of appropriations and disbursements, showing date, number, and amount of warrant; name of fund; and amount of appropriation. Arr. numer. by warrant no. No index. Hdw. 250 pp. 18 x 26 x 2. Aud. vt.

264. COUNTY AUDITOR FINANCIAL REPORT, 1873-90, 1919-.

3 f. b. (256, 257; 1 f. b. unlabeled).

Copies of auditor's annual financial reports to board of commissioners, showing dates of report and period covered; amounts

of previous balance, receipts, and disbursements; name of fund; amount of each fund and total balance; itemized statement of county indebtedness; total amounts of bonds unpaid; and county tax rates. Arr. chron. by date of report. No index. Hdw. 10 x 5 x 15. 2 f. b., 1873-90, aud. vt.; 1 f. b., 1919-, aud. off.

265. AUDITOR'S REGISTER, 1841-1911. 7 vols. (4 vols. unlabeled; 2-4). Title varies: Journal, 1841-May 1871, 3 vols.

Daily register of receipts and disbursements, showing date, nature, number, and amount of receipt and warrant and names of payer, payee, and fund. This is a combination of two records later kept separately: Register of miscellaneous receipts, entry 266; and register of disbursements, entry 267. Arr. chron. by date of receipt and disbursement. No index. Hdw. 1841-Sept. 1901; typed Oct. 1901-11. 300 pp. 16 x 12 x 2½. 1 vol., 1841-May 1846, aud. vt.; 6 vols., June 1846-1911, bookroom 1.

266. REGISTER OF RECEIPTS, MISCELLANEOUS, 1912-24. 1 vol. 1841-1911 in Auditor's Register, entry 265; 1925-in Application to Pay, entry 278.

Register of all receipts other than taxes, showing date, number, and amount of receipt and names of payer and fund. Also contains: Record of school fund receipts, entry 283. Arr. numer. by receipt no. No index. Hdw. 240 pp. 18 x 12 x 2½. Aud. vt.

267. REGISTER OF DISBURSEMENTS, 1912-24. 2 vols. 1841-1911 in Auditor's Register, entry 265.

Register of disbursements, showing date, nature, number, and amount of warrant and names of payee and fund. Also contains: Record of disbursements of school funds, entry 283. Arr. numer. by warrant no. No index. Hdw. 320 pp. 16 x 12 x 2½. Aud. vt.

268. [WARRANTS], May 1923-. 9 vols.

Carbon copies of warrants and register of disbursements, showing date, number, amount, and purpose of warrant and name of payee. Arr. numer. by warrant no. No index. Typed. 1,200 pp. 18 x 12 x 6. 3 vols., May 1923-28, bookroom 2; 4 vols., 1929-35, bookroom 1; 2 vols., 1936-, aud. off.

269. REGISTER OF WARRANTS, Aug. 1911-Apr. 1923. 11 vols. Register of warrants drawn for disbursement of funds, showing date, number, and amount of warrant; name of payee; and purpose of payment. Arr. numer. by warrant no. No index. Hdw. 650 pp. 18 x 15 x 3½. Bookroom 2.

270. WARRANTS, 1836-. 85 f. b.

Canceled warrants drawn on treasurer for payment of county expenses, showing date, amount, and number of warrant; name of payee and fund; and purpose of warrant. Arr. chron. by date of warrant. No index. Hdw. 10 x 5 x 15. 25 f. b., 1836-1912, aud. vt.; 60 f. b., 1913-, aud. off.

271. WARRANTS, 1934-. 6 vols.

Carbon copies of welfare fund warrants, showing date, amount, and purpose of warrant; warrant and account numbers; and name and address of payee. Arr. chron. by date of warrant. No index. Typed. 700 pp. 18 x 12 x 5. 5 vols., 1934-38, aud. vt.; 1 vol., 1939-, aud. off.

272. VENUE RECORD, 1897-. 1 vol.

Record of receipts and disbursements of court costs in causes venued to and from adjoining counties, showing date, number, amount, and nature of receipt or warrant; number and nature of cause; and names of plaintiff, defendant, and county. Arr. by date of receipt or warrant. No index. Hdw. 150 pp. 18 x 13 x 2. Aud. off.

273. ALLOWANCES, 1903-. 2 f. b. (169, 198).

Orders for allowances granted by judge of circuit court, showing dates of filing, order, and court term; names of court and payee; and nature and number of warrant. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 15. 1 f. b., 1903-21, aud. vt.; 1 f. b., 1922-, aud. off.

274. RECEIPTS AND ORDERS, 1836-May 1854, June 1871-July 1911. 8 vols. (2 vols. unlabeled; 2-7).

Register of orders drawn on treasurer and record of receipts taken for orders, showing date, nature, and number of order; name of payee; date delivered; and signature of payee. This is a combination of two records intercurrently kept separately: Register of orders, entry 275; receipts for orders, entry 276. Arr. numer. by order no. No index. Hdw. 1 vol., 1836-May 1854, 200 pp. 12 x 8 x 2; 7 vols., June 1871-July 1911, 300 pp. 16 x 16 x 2½. 7 vols., 1836-May 1854, June 1871-Sept. 1907, bookroom 1; 1 vol., Oct. 1907-July 1911, aud. vt.

275. REGISTER OF ORDERS, June 1854-May 1871. 3 vols. 1836-May 1854, June 1871-July 1911 in Receipts and Orders, entry 274.

Register of orders drawn on treasurer, showing date, number, nature, and amount of order and name of payee. Arr. numer. by order no. No index. Hdw. 300 pp. 16 x 12 x 2½. Bookroom 1.

276. RECEIPTS FOR ORDERS, June 1854-May 1871. 3 vols. 1836-May 1854, June 1871-July 1911 in Receipts and Orders, entry 274.

Receipts for orders, showing date, nature, number, and amount of order and name and signature of payee. Arr. numer. by order no. No index. Hdw. 300 pp. 16 x 12 x 2½. Bookroom 1.

277. CERTIFICATE OF DISTRIBUTION, 1876-. 8 vols.

Record of semiannual distribution of tax revenue to taxing units, showing date of distribution, names of taxing unit and fund, total amount distributed, and amount apportioned to each fund. Arr. chron. by date of distribution. No index. Hdw. 1876-1923; typed 1924-. 287 pp. 14 x 9 x 1. 4 vols., 1876-1918, bookroom 1; 1 vol., 1919-23, aud. vt.; 3 vols., 1924-, aud. off.

278. APPLICATIONS TO PAY, 1925-. 4 vols.

Carbon copies of applications to pay and quietuses, and register of receipts, showing application, receipt, and quietus number; date, purpose, and amount of payment; and names of payer and fund. This is a combination of two records formerly kept separately: Application to pay, entry 279; quietus, entry 280. Also contains: Register of miscellaneous receipts, entry 266; school fund receipts, entry 283. Arr. numer. by application, receipt, and quietus no. No index. Typed. 300 pp. 18 x 12 x 2. Aud. off.

279. APPLICATION TO PAY, 1895-1924. 9 vols. 1925-in Applications to Pay, entry 278.

Stubs of applications to pay money to treasurer, showing date and number of application, names of payer and fund, and amount and purpose of payment. Arr. numer. by application no. No index. Hdw. 300 pp. 18 x 12 x 2. Bookroom 2.

280. QUIETUS, 1895-1924. 10 vols. 1925-in Applications to Pay, entry 278.

Stubs of quietuses issued for payments to treasurer, showing date, number and amount of quietus; names of payer and fund; and purpose of payment. Arr. numer. by quietus no. No index. Hdw. 300 pp. 18 x 12 x 2. Aud. vt.

281. ABSTRACTS OF SALES OF SWAMP LAND IN MARSHALL COUNTY, 1853-May 17, 1881. 1 vol.

Record of payments received by treasurer from sales of State swamplands, showing dates and amounts of receipt and sale, name of purchaser, and location and description of lands. Arr. chron. by date of sale. No index. Hdw. 75 pp. 18 x 12 x 1. Aud. vt.

SCHOOL FUNDS

282. RECORD OF RECEIPTS AND DISBURSEMENTS, 1841-1924. 5 vols. Title varies: Auditor's School Fund Ledger, 1841-1911, 4 vols. 1925--in Auditor's Ledger of Receipts, Appropriations and Disbursements, entry 261.

Record of receipts and disbursements of school funds, showing date, nature, number, and amount of receipt and order and names of payer, payee, and fund. Arr. chron. by dates of receipt and order. No index. Hdw. 600 pp. 18 x 12 x 3. 4 vols., 1841-1911, bookroom 1; 1 vol., 1912-24, aud. vt.

283. AUDITOR'S SCHOOL FUND REGISTER, June 1871-1911. 1 vol. Receipts, 1912-24 in Register of Receipts, Miscellaneous, entry 266; 1925--in Application to Pay, entry 278; Disbursements, 1912-24 in Register of Disbursements, entry 267.

Register of receipts and disbursements of school funds, showing date, nature, number, and amount of order and names of payer, payee, and fund. This is a combination of two records formerly kept separately: Record of school fund receipts, entry 284; record of school fund disbursements, entry 285. Arr. chron. by dates of receipt and disbursement. No index. Hdw. June 1871-Sept. 1901; hdw. and typed Oct. 1901-11. 300 pp. 18 x 12 x 2½. Bookroom 1.

284. AUDITOR'S SCHOOL FUND REGISTER, 1839-May 1871. 2 vols. Title varies: Register of Receipts, 1839-50, 1 vol. June 1871-1911 in Auditor's School Fund Register, entry 283.

Register of receipts of school funds, showing date, number, and amount of receipt and names of payer and fund. Arr. chron. by date of receipt. No index. Hdw. 75 pp. 10 x 8 x ½. Bookroom 1.

285. REGISTER OF ORDERS, 1843-May 1871. 3 vols. June 1871-1911 in Auditor's School Fund Register, entry 283.

Register of orders drawn for disbursement of school funds, showing date, number, and amount of order and names of payee and fund. Arr. numer. by order no. No index. Hdw. 75 pp. 15 x 9 x ½. Bookroom 1.

286. REGISTER OF LOANS, 1837--. 7 vols. (4 vols. unlabeled; 3, 1, 2). Title varies: School Fund Ledger, 1859-71, 1 vol.

Record of loans made from common and Congressional school funds, showing date, amount, and number of loan; name of

mortgagor, township, and fund; number and amount of interest payments; and location, description, and assessed valuation of property. Arr. chron. by date of loan. No index; 1837-58; indexed alph. by name of mortgagor, 1859-. Hdw. 500 pp. 18 x 18 x 3. 4 vols., 1837-June 1899, bookroom 1; 1 vol., July 1899-1911, aud. vt.; 2 vols., 1912-, aud. off.

287. SCHOOL FUND MORTGAGES, Feb. 4, 1910-. 10 f. b.
(labeled by contained letters of alphabet).

Original real estate mortgages executed to secure school fund loans, showing date, amount, number, and conditions of mortgage; names of mortgagor and taxing unit; description, location, and valuation of property; rate of interest; and date of approval. Arr. alph. by name of mortgagor. No index. Hdw. 10 x 5 x 15. Aud. off.

288. SCHOOL FUND MORTGAGES [ABSTRACTS OF TITLE], 1902-.
3 f. d.

Abstracts of titles to real property mortgaged to secure school fund loans, showing dates of abstract and filing; names of mortgagor, abstractor, grantor, and grantee; location, description, and plat map of property; and chain of title. Also contains: Insurance policies on buildings on property mortgaged to secure school fund loans, 1902-17, entry 289. Arr. alph. by name of mortgagor. No index. Typed. 12 x 12 x 24. Aud. off.

289. [SCHOOL FUND MORTGAGE INSURANCE], 1918-. 1 f. b.
1902-17 in School Fund Mortgages [Abstracts of Title],
entry 288.

Insurance policies on buildings located on real estate on which school fund mortgages are held, showing dates of issue and expiration, kind of insurance, policy number, amounts of policy and premium, and location and description of building. Arr. chron. by date of issue. No index. Typed. 10 x 5 x 15. Aud. off.

290. SCHOOL FUND MORTGAGES RELEASED, 1917-. 1 f. b.
School fund mortgages which have been satisfied and uncalled for by mortgagor, showing date, amount, number, and condition of mortgage; names of mortgagor and taxing unit; location, description, and valuation of property; rate of interest; and dates of approval and release. Arr. chron. by date of release. No index. Hdw. 10 x 5 x 15. Aud. off.

291. INVENTORY OF LOANS TRUST FUNDS, Apr. 17, 1901-.
1 vol.

Record of inventory of school and trust fund loans, showing date of inventory; date, number, and amount of loan; name

of fund; amounts of interest paid and due; valuation of foreclosed loans; and amounts of unpaid interest and loans outstanding. Arr. chron. by date of inventory. No index. Hdw. 240 pp. 18 x 18 x 1½. Aud. off.

292. REGISTER CONDITION AND DISTRIBUTION SCHOOL FUND, 1853-1935. 2 vols. Title varies: Ledger, 1853-1911, 1 vol.

Record of condition, distribution, and readjustment of school funds, showing date of balance; name of fund; and amounts held in trust, loans and certificates in force, cash in treasury, due from county, loans paid, losses paid by county, fines and forfeitures received, damages, Congressional school fund transferred to and from other counties, receipts from miscellaneous sources, total receipts, loans made, loans absorbed by certificates of purchase, losses sustained by county, and balance. Arr. chron. by date of balance. No index. Hdw. 200 pp. 26 x 16 x 2. Aud. off.

TOWNSHIP FUNDS

293. TOWNSHIP TRUSTEE'S VOUCHERS, 1863-. 175 bdl.

Receipted carbon copies of township trustee's vouchers issued for payment of township expenses, showing date, number, nature, and amount of voucher and names of payee, township, trustee, and fund. Arr. chron. by date of voucher. No index. Hdw. 15 x 10 x 15. Aud. vt.

294. AUDITOR'S REGISTER OF POOR FUND CLAIMS, July 5, 1935-. 1 vol.

Register of claims paid from township poor fund, showing dates of claim, filing and payment; names of township and claimant; amount and nature of claim; and warrant and claim numbers. Arr. numer. by claim no. No index. Hdw. 250 pp. 18 x 12 x 2. Aud. off.

295. MARSHALL COUNTY AUDITOR'S LEDGER TOWNSHIP POOR RELIEF, 1935-. 1 vol.

Record of funds appropriated and disbursed for poor relief, showing dates of appropriation and disbursements; nature of relief; name of fund; amounts paid from county, State, and Federal funds; and total amounts received and disbursed. Arr. chron. by date of receipt or disbursement. No index. Hdw. 250 pp. 9 x 11 x 2. Aud. off.

296. TRUSTEES' ANNUAL REPORT TO ADVISORY BOARD, 1866-. 435 vols.

Auditor's copy of township trustees' annual financial report to advisory board, showing dates of report and filing, dates

and amounts of receipts and vouchers; names of trustee, township, and fund; and total balance or overdraft. Also contains: Abstract of trustees settlement, 1920-, entry 298. Arr. chron. by date of filing. No index. Hdw. 40 pp. 10 x 14 x $\frac{1}{4}$. Aud. vt.

297. TOWNSHIP TRUSTEES' REPORTS, 1886-. 4 f. b.

Township trustees' annual report to auditor of receipts and disbursements of dog funds, showing dates of report, receipts, and disbursements; names of township, trustee, payer, and payee; number and nature of order and voucher; and amounts of previous balance, receipts, disbursements, totals, and orders outstanding. Arr. chron. by date of report. No index. Hdw. 10 x 5 x 15. 3 f. b., 1886-1916, aud. vt.; 1 f. b., 1917-, aud. off.

298. ABSTRACT OF TRUSTEES SETTLEMENT, 1873-1919. 3 vols. (1-3). 1920-in Trustees' Annual Report to Advisory Board, entry 296.

Township trustees' annual financial settlement sheets, showing date of settlement, names of taxing unit, and fund, enumeration of school children, dates and amounts of funds advanced and distributed, and totals. Arr. chron. by date of settlement. No index. Hdw. 500 pp. 16 x 12 x $2\frac{1}{2}$. 2 vols., 1873-1916, bookroom 1; 1 vol., 1917-19, aud. vt.

299. TRUSTEE'S REPORTS, 1933-. 1 f. b.

Copies of auditor's monthly reports to Governor's Commission on Unemployment Relief of condition of poor relief funds, showing dates of report and filing; amounts of receipts, disbursements, and balances of county poor relief revenue; totals of unpaid claims and poor relief obligations; and names of fund and township. Also contains: Additional appropriations, Sept. 30, 1935-, entry 30. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 15. Aud. off.

TAXATON

REAL, PERSONAL AND POLL

300. TRANSFER BOOK, 1837-. 156 vols. (numbering varies).

Title varies: Record of Transfer of Lands and Town Lots, 1837-July 11, 1853.

Record of ownership and transfers of titles of real property, showing dates of instrument and transfer; names of grantor and grantee; amount of fee; kind of instrument; and location, description, and appraised valuation of property. Arr. chron. by date of transfer 1837-July 11, 1853; arr. by name of t.

and alph. thereunder by name of grantee July 13, 1853-. For index 1837-July 11, 1853, see entry 301; no index, July 13, 1853-. Hdw. 175 pp. 18 x 12 x 2. 109 vols., 1837-Mar. 1, 1919, aud. vt.; 47 vols., Mar. 2, 1919-, aud. off.

301. [INDEX TO TRANSFER BOOK], 1837-July 11, 1853. 1 vol. Index to transfer book, entry 300, showing names of grantor and grantee and volume and page reference to recording. Arr. alph. by name of grantor. Hdw. 200 pp. 14 x 8 x 1½. Aud. vt.

302. ASSESSOR'S PLAT BOOK, 1852-. 41 vols. (1-15; 26 vols. unlabeled).

Plat drawings of all taxable real property in county, showing plat, section, township, and range numbers; names of owner and township; location and description of land; number of acres; value of land, lots, and improvements; date of transfer; and volume and page reference to deed record, entry 74. Arr. numer. by section nos. No index. Hdw. 150 pp. 21 x 19 x 1½. 4 vols., 1852-86, bookroom 2; 22 vols., 1887-1925, aud. vt.; 15 vols., 1926-, aud. off.

303. PLAT BOOK, undated. 15 vols. (1-15).

Plat drawings of lands in Marshall County, showing names of townships and owners of land and location and description of land. Arr. by name of t. and alph. thereunder by name of owner. No index. Hdw. 80 pp. 21 x 19 x 1½. Aud. off.

304. [PLAT BOOK OF SWAMPLANDS], not dated. 1 vol.

Plat drawing of all swamplands of Marshall County, showing name of township, range and section numbers, and amount of acreage in each plat. Arr. numer. by section no. No index. Hdw. 70 pp. 12 x 12 x ½. Aud. vt.

305. ASSESSOR'S BOOK, 1848-. 664 vols.

Record of all taxable property in county, showing names of property owner and taxing unit; location and description of property; valuation of lands, lots, and improvements; total value of all taxables; and amounts of mortgage and soldiers exemptions. Arr. alph. by name of property owner. No index. Hdw. 120 pp. 20 x 13 x 1½. 424 vols., 1848-1925, bookroom 2; 224 vols., 1926-37, 1939-, assr. off.; 16 vols., 1938, aud. off.

306. REAL ESTATE, 1882-. 157 vols. (dated).

Assessment lists of all real property subject to taxation, showing date of assessment, amount of appraised value of real estate and improvements, names of taxing unit and property owner, location and description of property, and total assessed valuation. Arr. alph. by name of taxing unit and alph. thereunder by name of property owner. No index. Hdw.

500 pp. 16 x 10 x 3. 140 vols., 1882-1925, bookroom 2; 17 vols., 1926-, assr. off.

307. PERSONAL ASSESSMENT LISTS, 1872-. 935 vols. (numbered irregularly).

Schedule of personal property assessments, showing names of property owner and taxing unit, date of assessment, itemized list of personal property, valuations by owner and township and county assessors, and number of dogs and polls. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 300 pp. 14 x 9 x 3. 750 vols., 1872-1925, bookroom 2; 185 vols., 1926-, assr. off.

308. STATEMENTS OF DOMESTIC CORPORATION, 1919-. 2 f. b. Statements by domestic corporations of all their holdings in county, showing date of statement; name of corporation; location of principal office; kind of business; amounts of capital, common, and preferred stock; market valuation of stocks; valuation of all tangible property and franchises; amounts of gross receipts, surplus, reserve funds, and undivided profits for last fiscal year; and copy of balance sheet. Arr. chron. by date of statement. No index. Typed. 10 x 5 x 15. 1 f. b., 1919-Mar. 31, 1927, aud. vt.; 1 f. b., Apr. 5, 1927-, aud. off.

309. RECORD OF TRUST FUNDS, 1900-1918. 1 vol. Auditor's record of trust funds for determining tax assessment, showing names of executor or administrator or guardian in charge of trust fund; estate, and heir or ward; amount in trust; and date of final report. Arr. alph. by name of administrator, executor, or guardian. No index. Hdw. 600 pp. 16 x 12 x 3. Bookroom 2.

310. ERRONEOUS CERTIFICATES, 1895-. 4 vols. Record of certificates of erroneous assessments, showing date of certificate, names of taxpayer and taxing unit, certificate and tax duplicate numbers, and amount and nature of error. Arr. alph. by name of taxpayer. No index. Hdw. 500 pp. 17 x 12 x 3. 1 vol., 1895-1902, aud. vt.; 2 vols., 1903-15, bookroom 2; 1 vol., 1916-, aud. off.

311. TAX DUPLICATE [and Delinquent List], 1877-1912. 102 vols. (dated). Record of taxes payable and amounts returned delinquent, showing information as in entry 236. This is a combination of two records formerly kept separately: Tax duplicate, entry 312; delinquent list, entry 313. Arr. by name of taxing unit and numer. thereunder by duplicate no. No index. Hdw. 350 pp. 28 x 13 x 3. Bookroom 1.

312. TAX DUPLICATE, AUDITOR, 1841-76. 49 vols. 1877-1912 in Tax Duplicate and Delinquent List, entry 311.

Record of all taxes payable, showing information as in entry 237. Arr. by name of taxing unit and numer. thereunder by duplicate no. No index. Hdw. 350 pp. 18 x 30 x 3. Book-room 1.

313. DELINQUENT LIST, AUDITOR, 1841-76. 88 vols. (dated). 1877-1912 in Tax Duplicate and Delinquent List, entry 311.

Record of delinquent taxes, showing information as in entry 238. Arr. by name of taxing unit and numer. thereunder by duplicate no. No index. Hdw. 300 pp. 17 x 26 x 4. Book-room 1.

PUBLIC IMPROVEMENTS

314. DITCH EXPENSES, 1861-. 2 f. b.

Record of current and delinquent ditch tax assessments and collections, showing dates of assessment, collection, and filing; name and address of property owner; location and description of property; name of ditch; and amount of assessment and delinquency. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 15. 1 f. b., 1861-1926, aud. vt.; 1 f. b., 1927-, aud. off.

315. DITCHES, July 22, 1905-. 4 f. b.

Surveyor's report to county auditor of assessments and installments due for construction and repair of ditches, showing date of report; names of property owner, ditch, and surveyor; description and location of lands assessed; date and amount of assessment; date and amount of installment due, paid, and delinquent. Arr. chron. by date of report. No index. Typed. 10 x 5 x 15. Aud. off.

316. COUNTY UNIT ROAD RECORD, 1919-Nov. 19, 1935. 1 vol.

Ledger of expenditures by county commissioners for repairs of county gravel roads, showing names of road and payee, date and amount of warrant, and nature of service. Arr. alph. by name of road and chron. thereunder by date of warrant. No index. Hdw. 250 pp. 16 x 11 x 2. Aud. off.

317. COUNTY HIGHWAY SUPERINTENDENT, 1928-31. 1 f. b.

Receipt books of assistant superintendent of highways of payments for labor and materials on roads, showing dates of warrant, receipts, and filing; names of assistant highway superintendent and payee; number and amount of warrant and receipt; itemized list of labor performed and materials used; and signature of payee. Arr. chron. by date of receipt. No index. Hdw. 10 x 5 x 15. Aud. off.

EXEMPTIONS

318. MORTGAGE EXEMPTION, 1911-. 79 vols. (labeled irregularly).

Affidavits of mortgage indebtedness, showing dates of affidavit and filing; names of mortgagor, mortgagee, and taxing unit; amount of mortgage; location, description, and assessed valuation of property; and volume and page reference to mortgage record, entry 89. Arr. by name of t. and alph. thereunder by name of mortgagee. No index. Hdw. 614 pp. 9 x 13 x 3. 73 vols., 1911-37, bookroom 2; 6 vols., 1938-, aud. off.

319. APPLICATIONS FOR SOLDIER'S TAX EXEMPTION, 1919-. 5 f. b.

Affidavits filed by soldiers, sailors, marines, nurses, and pensioned widows to secure tax exemptions, showing date of affidavit; name, age, and service record of soldier, sailor, marine, or nurse; name of taxing unit; location, description, and assessed valuation of property; and amount of exemption. Arr. chron. by date of affidavit. No index. Hdw. 10 x 5 x 15. 1 f. b., 1919-Oct. 30, 1927, aud. vt.; 4 f. b., Feb. 2, 1928-, aud. off.

TAX SALES

320. LIST OF DELINQUENT LANDS & LOTS ADVERTISED, 1870-. 5 vols. (2 vols. unlabeled; 3-5).

Record of lands and lots offered for sale for delinquent taxes, showing dates of advertisement and sale; tax duplicate number; location and description of property; names of taxing unit, owner, and purchaser; total amount of taxes due; and advertising cost. Arr. by name of taxing unit and chron. thereunder by date of sale. No index. Hdw. 320 pp. 18 x 14 x 2. 2 vols., 1870-1905, bookroom 1; 3 vols., 1906-, aud. off.

321. TAX SALES BOOK, 1841-. 2 vols. (1, 2).

Record of lands and lots sold for delinquent taxes, showing names of owner, taxing unit, purchaser, and redeemer; dates of sale and redemption or deed; amounts of sale and redemption; certificate and tax duplicate numbers; and description and location of property. Arr. chron. by date of sale. No index. Hdw. 275 pp. 18 x 13 x 3. Aud. off.

322. TAX SALE BOOK, 1848-1911. 3 vols. (A-C).

Record of lands and lots sold for delinquent taxes, showing date of sale; names of township and owner; amounts of delinquent tax, penalty, and interest; and location and description of property. Arr. alph. by name of owner. No index. Hdw. 175 pp. 18 x 12 x 1. Bookroom 1.

323. TAX CERTIFICATES, 1844-. 8 f. b. (1 f. b. unlabeled; 2-8).

Original certificates of sale of property sold for delinquent taxes and exchanged for tax title deed or redemption money, showing dates of sale, certificate, redemption or tax title deed, and filing; names of owner and purchaser; certificate and tax duplicate numbers; amount of sale; and location and description of property. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 15. 7 f. b., 1844-1930, aud. vt.; 1 f. b., 1931-, aud. off.

324. REDEMPTION REGISTER, 1860-Apr. 12, 1911. 2 vols. Record of redemption of property sold for delinquent taxes, showing date of redemption, names of owner and purchaser, location and description of property, tax sale certificate number, and amount of redemption. Arr. chron. by date of redemption. No index. Hdw. 235 pp. 12 x 16 x 2. Bookroom 1.

OFFICIAL BONDS

325. RECORD OF MISCELLANEOUS BONDS, 1876-. 1 vol.

Transcripts of bonds posted by county officials, showing dates of bond, approval, and recording; names of official and sureties; amount and conditions of bond; and title and term of office. Also contains: Trustee's bond record, 1876-, entry 326; School trustee's bond record, 1876-1900, 1933-, entry 327. Arr. chron. by date of recording. Indexed alph. by name of official. Hdw. 600 pp. 18 x 12 x 3. Aud. off.

326. TRUSTEE'S BOND RECORD, 1861-70. 1 vol. 1876-in Record of Miscellaneous Bonds, entry 325.

Transcripts of bonds posted by township trustees, showing date, amount, and conditions of bond and names of sureties, township, and trustee. Arr. chron. by date of bond. No index. Hdw. 125 pp. 15 x 12 x 1. Bookroom 1.

327. SCHOOL TRUSTEE'S BOND RECORD, 1901-32. 2 vols. 1876-1900, 1933-in Miscellaneous Bond Record, entry 325.

Transcripts of bonds posted by township school trustees, showing date, amount, and conditions of bond; names of principals, township, and sureties; and dates of approval and recording. Arr. chron. by date of bond. Indexed alph. by name of principal. Hdw. 500 pp. 16 x 12 x 3. 1 vol., 1901-Aug. 16, 1918, bookroom 1; 1 vol., Aug. 30, 1918-32, aud. vt.

AUDITS AND REPORTS

328. SCHOOL FUND REPORTS, 1860-. 4 f. b. (247, 248, 270; 1 f. b. unlabeled).

Contains:

- i. Reports by auditor to state Superintendent of Public Instruction of financial condition of Congressional township and common school funds, showing date of report, itemized list of funds received and disbursed, valuation of foreclosed mortgages, amount of losses sustained during year, and balance in each fund.
- ii. Reports by auditor to State Superintendent of Public Instruction of enumeration of school children and apportionment of school funds, showing date of report, name of school unit, number of pupils in each school unit, average daily attendance, and amounts of funds distributed and advanced to each unit.

Arr. chron. by date of report. No index. Hdw. 10 x 5 x 15. 3f. b., 1860-1918, aud. vt.; 1 f. b., 1919-, aud. off.

329. INTANGIBLE TAX MATTERS, 1933-. 1 f. b.

Treasurer's reports to auditor of intangible tax stamp sales, showing dates of report and sales, amount of stamp on hand at beginning of period, totals received and sold, and balance on hand. Arr. chron. by date of report. No index. Hdw. 10 x 5 x 15. Aud. off.

330. REPORT OF COUNTY RECORDER, 1919-. 3 f. b.

Recorder's and Sheriff's annual reports to auditor of fees collected, showing dates of report and filing, names of office and official, and nature and amounts of fees. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 15. Aud. off.

331. [PROSECUTOR'S MONTHLY REPORTS], 1933-. 1 f. b.

Monthly report by prosecuting attorney to auditor of causes prosecuted and fees assessed and collected, showing date of report, number and title of cause, amounts of fees assessed and collected, and total fees. Arr. chron. by date of report. No index. Hdw. 10 x 5 x 15. Aud. off.

332. J[ustice of the] P[ea]ce REPORTS, 1919-. 2 f. b. Monthly reports by justices of the peace of fees and fines collected, showing dates of report, collection, and filing; names of township, plaintiff, defendant, and justice; cause number; amount collected; and date and amount paid treasurer. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 15. 1 f. b., 1919-21, aud. vt.; 1 f. b., 1922-, aud. off.

333. FIELD EXAMINERS REPORTS, 1909-. 3 f. b.

Reports of audits of county officials' records by field examiners of State Board of Accounts, showing dates of audit and report; names of official, office, and field examiner; and statement of financial conditions of accounts. Arr. chron. by date of report. No index. Hdw. and typed. 10 x 5 x 15. 2 f. b., 1909-21 aud. vt.; 1 f. b., 1922-, aud. off.

MISCELLANEOUS RECORDS

334. SETTLEMENT SHEETS, 1883-. 5 vols.

Settlement sheets for distribution of tax revenue to the various taxing units, showing dates of settlement and distribution; names of taxing unit and fund; kind and amount of taxes collected, delinquent, and apportioned; and total amount of taxes collected. Arr. chron. by date of settlement. No index. Hdw. 150 pp. 24 x 24 x 2. 3 vols., 1883-1910, bookroom 2; 2 vols., 1911-, aud. vt.

335. RECORD OF FOREST RESERVATION, 1908-. 1 vol.

Affidavits executed by property owners setting aside lands as forest reservations to secure exemption on tax payments, showing date of affidavit, name of property owner, location and description of land, and number of acres of land set aside. Arr. chron. by date of affidavit. No index. Hdw. 318 pp. 16 x 12 x 2. Aud. off.

336. DEPUTY ASSESSOR OATHS, 1897-1904, 1924-. 2 f. b.

Original certificates of appointments of deputy assessors, showing dates of appointment and filing; names of deputy, township, and assessor; and duration of appointment. Arr. chron. by date of filing. No index. Hdw. 10 x 5 x 15. 1 f. b., 1897-1904, aud. vt.; 1 f. b., 1924-, aud. off.

337. RECORD OF STATISTICAL STATEMENTS, 1861-1923. 96 vols.

Record of statements of farm statistics, showing dates of statement and recording; name of farm owner or operator; farm acreage; number of acres tillable, woodlands, pasture, and waste land; and value and quantity of stock and farm products produced, sold, and on hand. Arr. chron. by date of recording. Indexed alph. by name of owner or operator. Hdw. 150 pp. 18 x 10 x 1/2. Bookroom 2.

338. LAND ENTRIES, 1834-Jan. 1841. 1 vol.

Record of all lands in county purchased from U. S. Government, showing name of purchaser, dates of entry and purchase, location and description of land, and number of acres. Arr. chron. by date of entry. No index. Hdw. Condition poor. 235 pp. 14 x 8 x 1 1/2. Aud. vt.

MAPS

339. MAP OF MARSHALL COUNTY, 1931. 1 map.

Political and communication map, showing date of map; cities, towns, and township boundaries; and names and locations of paved and gravel roads, railroads, schools, rivers, creeks, and ditches. Published by Stacy Map Publishing Co., Rockford, Ill. Ptd. No scale given. 32" x 32". Aud. off.

340. MAP OF MARSHALL COUNTY, 1899. 1 map.

Political and communication map, showing information as in entry 339. Drawn by Everly and Cressner, Chicago, Ill. Published by Goes Litho Co. Ptd. Scale: 1" to 1 mi. 5' x 5'. Aud. off.

341. STATE ENGINEERS, undated 1 map.

Political and communication map of State of Indiana, showing location of paved and gravel roads, railroads, rivers, streams, cities, towns, and electric lines and names and boundaries of counties. Drawn by W. Elliot Judge, San Francisco, Calif. Ptd. Scale: 1" to 9 mi. 4' x 5'. Aud. off.

XXVIII. REGISTRATION OFFICER

LEGAL STATUS

The clerk of the circuit court serves ex officio as the registration officer of Marshall County under the requirements of acts of 1933, 1935, and 1941.¹

The registration officer may appoint as many deputy registration officers for the county as may be necessary. They are selected in equal numbers from the two major political parties, on the written recommendation of the county chairman of each party. They receive a certificate of appointment which they must keep with them when about their official duties, and must take an oath administered by the clerk of the circuit court. A list of all deputy registration officers is kept in the office of the clerk of the circuit court and is open to public inspection. All deputy registration officers act under the direction, supervision, and authority of the clerk of the circuit court. The appointed deputies may be removed from office by the clerk at any time.²

¹ Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306(a); Baldwin, 1941 suppl., 7304(a).

² *Ibid.*

For each registration blank or transfer of registration which the clerk of the circuit court fills out and executes, he receives compensation in an amount (fixed by the board of county commissioners) not exceeding 4 cents. Each deputy registration officer receives compensation in an amount (fixed by the board of county commissioners) not exceeding 5 cents for each registration blank or transfer of registration which he delivers, properly filled out and executed, to the clerk of the circuit court. The board of county commissioners authorizes reasonable compensation to the clerk of the circuit court for the additional services rendered by him as registration officer.³

The Constitution prescribes the qualifications of voters.⁴ An amendment of the Constitution in 1881 directed the General Assembly to provide for the registration of all persons entitled to vote, and an amendment in 1926 authorized, but did not require, such registration laws.⁵

Many laws for registration have been enacted. An act of 1867, establishing a township board of registry, consisting of the township trustees and two freeholders appointed by the board of commissioners,⁶ was repealed in 1869.⁷ Acts of 1889⁸ and 1891,⁹ providing for registration in the office of the clerk of the circuit court, were declared unconstitutional in 1890¹⁰ and 1892,¹¹ respectively. An act of 1911, providing for a precinct registration board, consisting of a registration inspector (appointed by the board of commissioners) and two registration clerks (appointed by the registration inspector),¹² was repealed in 1917.¹³ An act of 1917, creating a board of registration commissioners (generally called the "registration board"), consisting of the clerk of the circuit court and two qualified electors appointed by him (one

³ Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306(a), 29-329; Baldwin, 1941 suppl., 7304(a); Baldwin, 1935 suppl., 7327.

⁴ Const. 1851, art. 2, sec. 2.

⁵ *Ibid.*, sec. 14 (as amended in 1891 and 1926).

⁶ Acts 1867, ch. 51, sec. 2.

⁷ Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

⁸ Acts 1889, ch. 87, sec. 13.

⁹ Acts 1891, ch. 144, sec. 1.

¹⁰ *Morris v. Powell*, 125 Ind. 281, 25 N. E. 221 (1890).

¹¹ *Brewer v. McClelland*, 144 Ind. 423, 32 N. E. 299 (1892).

¹² Acts 1911, ch. 150, secs. 3-15.

¹³ Acts 1917, ch. 139, sec. 47.

from each of the two major political parties),¹⁴ was repealed in 1919.¹⁵ An act of 1919, creating precinct registration boards,¹⁶ was amended by an act of 1925, creating a registration board consisting of the auditor and a person of opposite political faith appointed by him;¹⁷ and both acts were repealed in 1927.¹⁸ Acts of 1933, 1935, and 1941 established the present system of registration.¹⁹ There was no registration system from 1869 until 1889, 1892 until 1911, and 1927 until 1933.

FUNCTIONS AND RECORDS

Registration of all voters is a requirement for voting at any general election, primary election, city election, or any special election in which all qualified voters of the State may participate. Such registration must be made at least 29 days before the election.²⁰ On proper application every person is entitled to register for voting in the precinct in which he resides, provided such person (a) will be at least 21 years old at the next ensuing general election or city election, (b) is a citizen of the United States, and (c) will, at the time of such election (if he continues to reside in the same ward or precinct), have resided in the State 6 months, in the township 60 days, and in the ward or precinct 30 days.²¹

The registration officer has full charge and control of the registration of the voters and provides all the necessary books and supplies.²² The deputy registration officers may register voters at such places within the county as the clerk of the circuit court shall designate and which will be deemed most convenient to large numbers of voters without reference

¹⁴ *Ibid.*, sec. 4.

¹⁵ Acts 1919, ch. 150, sec. 1.

¹⁶ *Ibid.*, ch. 186, sec. 4.

¹⁷ Acts 1925, ch. 138, sec. 1.

¹⁸ Acts 1927, ch. 197, sec. 1.

¹⁹ Acts 1933, ch. 178. Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306, 29-309, 29-311 to 29-314; Baldwin, 1941 suppl., 7304, 7307, 7309 to 7312.

The 1933 act was constitutional. *Blue v. State ex rel. Brown*, 206 Ind. 98, 188 N. E. 583 (1934).

²⁰ Acts 1933; Burns 29-301, 29-307, 29-335; Baldwin 7299, 7305, 7333. Acts 1933, 1935; Burns 1941 suppl., 29-336; Baldwin, 1935 suppl., 7334.

²¹ Acts 1933; Burns 29-328; Baldwin 7326.

²² Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306(a), 29-309; Baldwin, 1941 suppl., 7304(a), 7307.

Manner of registering. Acts 1933; Burns 29-308, 29-310; Baldwin 7306, 7308. Acts 1933, 1941; Burns, 1941 suppl., 29-309, 29-311 to 29-313; Baldwin, 1941 suppl., 7307, 7309 to 7311.

Penalty for false statement, false signature, or violation of registration law. Acts 1933; Burns 29-339; Baldwin 7337.

to precincts.²³ They can administer all oaths required by the registration laws.²⁴ Every voter who desires to register must execute an affidavit before a registration official setting forth the required information pertaining to his qualifications as a voter.²⁵

The "official registration books" consist of the original affidavits of registration²⁶ and constitute permanent registration record. The clerk also keeps a duplicate set of these affidavits.²⁷ The clerk, not later than 10 days before the election, prepares typewritten or photostatic copies of the registration list of each precinct in the county, and delivers one copy to the county chairman of each of the two major political parties. Two copies of the list are delivered to each election inspector, as a part of the sealed package of election supplies, to be used at the polls on election day. Other copies may be publicly inspected at the office of the clerk as soon as they are completed.²⁸ Registration supplies and the original affidavits of registration are delivered by the clerk to the election inspectors for use at the voting places on election day, and are returned to the clerk when the precinct officials complete their duties.²⁹

Except as hereinafter otherwise stated, any voter whose name was placed on the registration books of any precinct in this State after May 21, 1933 while such voter was a resident of that precinct is not required to register again, so long as (a) he continues to reside in the same county and precinct in which he is registered and (b) is not disfranchised for any cause prescribed by the laws of the State and (c) his registration is not canceled.³⁰ The clerk will cancel the registration of any voter who requests such cancelation.³¹

²³ Acts 1933, 1935; Burns, 1941 suppl., 29-311; Baldwin, 1935 suppl., 7309.

²⁴ Acts 1933, 1935, 1941; Burns, 1941 suppl. 29-306(a); Baldwin, 1941 suppl., 7304(a).

²⁵ Acts 1933; Burns 29-313; Baldwin 7311.

²⁶ Acts 1933; Burns 29-316; Baldwin 7314.

²⁷ Acts 1933; Burns 29-302, 29-315; Baldwin 7300, 7313.

²⁸ Acts 1933, 1935; Burns, 1941 suppl., 29-317; Baldwin, 1935 suppl., 7315.

²⁹ Acts 1933, 1941; Burns, 1941 suppl., 29-331; Baldwin, 1941 suppl., 7329. Acts 1933;

Burns 29-316; Baldwin 7314.

³⁰ Acts 1933; Burns 29-303, 29-308; Baldwin 7301, 7306. Information obtained from Fred C. Gause, member of State Board of Election Commissioners, on December 10, 1940, by William E. Chambers.

³¹ Acts 1933, 1941; Burns, 1941 suppl., 29-327; Baldwin, 1941 suppl., 7325. Acts 1933; Burns 29-324; Baldwin 7322

On a change of residence within the county, any registered voter may cause his registration to be transferred to his new address by sending a transfer to the clerk or by applying in person to the clerk for such transfer. If the voter changes his residence from the county in which he is registered to some other county, he must register in the proper precinct of the county to which he has moved and sign a printed form authorizing the cancellation of the previous registration. Within 15 days thereafter the clerk of the latter county forwards this document to the clerk of the former county, who cancels the previous registration.³²

When the address of a voter (at which the voter continues to reside) is transferred to another precinct by a change of precinct boundaries or by creation of a new precinct, the clerk must transfer the voter's registration accordingly, and it is not necessary for the voter to apply for such transfer.³³

If the clerk of the circuit court mails to a registered voter, at his registered address, a notice stating that the clerk has received information (specifying the source thereof) that the voter has moved away from the county, precinct, or address at which he is registered, the registration of the voter will be canceled unless the voter applies for a continuance of registration within 30 days after the mailing of the notice.³⁴

If a voter's name is changed by marriage or by court order, the voter's previous registration cannot serve as a basis for voting unless before receiving a ballot the voter files a verified statement setting forth the name under which such voter is registered and the name of such voter as changed. This statement may be filed with the clerk of the circuit court on any day or with another member of the election board on election day.³⁵

Any voter of the county or city may challenge the registration of any registered voter of such county or city by submitting an affidavit to the clerk of the circuit court, not later than 2 weeks before any primary election, general election, or city election. This affidavit must state that such voter is not qualified to vote in the precinct in which

³² Acts 1933, 1935; Burns, 1941 suppl., 29-314; Baldwin, 1935 suppl., 7312.

³³ Acts 1933; Burns 29-318, 29-319; Baldwin 7316, 7317.

³⁴ Acts 1933, 1941; Burns, 1941 suppl., 29-327; Baldwin, 1941 suppl., 7325. Acts 1933; Burns 29-326; Baldwin 7324.

³⁵ Acts 1933, 1939; Burns, 1941 suppl., 29-330; Baldwin, 1939 suppl., 7328.

he is registered and must specify reasons why such challenged voter is disqualified. The clerk then mails to the challenged voter, at his registered address, a notification of such challenge. In order to vote at such election the challenged voter must take an oath as required by law for voters challenged at an election. The oath may be taken before the clerk within 7 days after mailing the notice or may be taken before the election inspector at the election.³⁶

During the month of January following such general election the clerk must examine the registration books of each precinct and must note the names of all voters who have not voted within a period of 2 years. The clerk must then mail to each such voter, at his last known address, a notice on a printed form prescribed by law. The registration of any such voter will be cancelled unless the voter applies for reinstatement of registration within 30 days after the mailing of such notice.³⁷

It is the duty of the registration officer to check the registration lists continually for deceased and disfranchised voters. Lists of deceased voters are obtained from local health officers, and the clerk prepares a list of all disfranchised voters.³⁸

If the board of county commissioners determines that the registration books of any precinct have been destroyed or mutilated or inaccessible or are for any other reasonable cause unfit to be used, a new registration must be conducted in that precinct and every voter residing in that precinct must register.³⁹

The expense of the preparation of registration is paid out of the general fund of the county treasury, as directed by the board of county commissioners, after appropriation by the county council. The expense of preparing lists of registered voters for use in a city election is paid by the city, after appropriation by its common council.⁴⁰

All forms, blanks, records, and other supplies used in the registration of voters are prescribed by the State Board of Election Commissioners for the purpose of uniformity in the registration records of the State.⁴¹

³⁶ Acts 1933, 1941; Burns, 1941 suppl., 29-327; Baldwin, 1941 suppl., 7325. Acts 1933; Burns 29-325; Baldwin 7323.

³⁷ Acts 1933, 1941; Burns, 1941 suppl., 29-320; Baldwin, 1941 suppl., 7318.

³⁸ Acts 1933, 1941; Burns, 1941 suppl., 29-321, 29-327; Baldwin, 1941 suppl., 7319, 7325. Acts 1933; Burns 29-322; Baldwin 7320.

³⁹ Acts 1933; Burns 29-304; Baldwin 7302.

⁴⁰ Acts 1933; Burns 29-305; Baldwin 7303.

⁴¹ Acts 1933; Burns 29-334; Baldwin 7332.

342. VOTERS' CARDS, 1934-. 9 f. d.

Registration cards of all voters in county, showing date of registration; name, age, sex, address, and place of birth of voter; names of registration officer, witnesses, and township; length of time resided in township and precinct; political affiliation according to ballot used in last primary election; number of times voted in primary and general elections; and registration, ward, and precinct numbers. Arr. by name of t. and alph. thereunder by name of voter. No index. Typed. 5 x 6 x 20. Clk. off.

343. INDEX CARDS, 1934-. 9 f. d.

Card record of all registered voters, showing name and address of voter, ward and precinct numbers, and name of township. Arr. by name of t. and alph. thereunder by name of voter. Hdw. 5 x 5 x 18. Clk. off.

344. CANCELED REGISTRATION CARDS, 1937-. 1 bdl.

Registration cards canceled because of death, removal from county, or failure of voter to vote over a period of 2 years, showing information as in entry 342, and also date and cause of cancelation. Arr. alph. by name of voter. No index. Typed. 4 x 6 x 8. Clk. off.

345. REGISTRATION BOOKS, 1912-20. 167 vols.

Register of voters in various precincts of county, showing date of registration; name, age, sex, address, and place of birth of voter; names of registration officer, witnesses, and township; and registration, ward, and precinct numbers. Arr. numer. by registration no. No index. Hdw. 75 pp. 16 x 14 x 1/4. Bookroom 2.

346. REGISTER OF NOTICE TO BECOME A VOTER, 1890-92. 1 vol.

Register of voters' notices of intention to hold residence, showing date of notice; name, age, and address of voter; names of township or city; and ward and precinct numbers. Arr. alph. by name of voter. No index. Hdw. 250 pp. 18 x 13 x 3. Bookroom 1.

XXIX. BOARD OF PRIMARY ELECTION COMMISSIONERS

EVOLUTION AND STRUCTURAL ORGANIZATION

The board of primary election commissioners has existed in Marshall County ever since 1915 under the requirements of an act of 1915. The board is composed of the clerk of the

circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairmen).¹ The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof during the preceding year, must reside within the county after their appointment,² must serve as members of the county board of canvassers and county board of election commissioners during the calendar year in which they were appointed,³ must not hold any other appointive or elective public office,⁴ and must take an oath to support the State and Federal Constitutions and faithfully discharge their duties.⁵ Each member of the board is allowed \$125 for his services at any primary election.⁶

For sufficient legal causes any member of the board of primary election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁷ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁸ A vacancy in the office of an appointed member is filled through appointment by the clerk of the circuit court.⁹

Before 1907 nominations were strictly a party affair. At first candidates were proposed by a mass meeting, or by an informed caucus which could be a meeting of all the voters of the party in the precinct or other political units. Out of the latter developed the party convention—an assembly of

¹ Acts 1915, 1917; Burns 29-504; Baldwin 7150. The amendment of 1917 merely added a compensatory provision which was superseded by an act of 1935. See footnote 6 herein.

² Const. 1851, art. 6, secs. 4, 6.

³ Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1905, 1927; Burns 29-1401; Baldwin 7577. See the essays entitled "County Board of Canvassers" and "County Board of Election Commissioners."

⁴ Acts 1915, 1917; Burns 29-512; Baldwin 7198.

⁵ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁶ Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1935; Burns, 1941 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

For vacancy in the office of clerk, see the essay entitled "Clerk of the Circuit Court."

official delegates chosen by the electors of the party at primary elections.¹⁰

Indiana was one of the first States to adopt the primary election as a means of choosing candidates. The law of 1889, which instituted the Australian ballot system, recognized the right of a political party to hold a primary election, under the control of the chairman who certified the names of the nominees to the county board of election commissioners.¹¹

An act of 1901, applicable to all political parties casting 10 percent of the total vote at the preceding general election, provided for the organization of political parties and the holding of two primary elections—one for precinct committeemen, and one for direct nomination of candidates or for election of delegates to a nominating convention. The precinct committeemen elected at the first primary election determined whether the party candidates should be nominated at a primary election or by a delegate convention. For a primary election the party chairman was required to fix the date thereof and deliver to the county board of election commissioners the names of the candidates proposed by petition. This board was required to prepare the primary ballot. No two political parties could hold their primaries at the same time or place. Returns were made to the party board of primary election commissioners. This board declared the nominees of the party, and the chairman of the board certified their names to the county board of election commissioners.¹²

An act of 1907 prescribed a direct primary election, under the supervision of a county board of primary election commissioners, for the nomination of party candidates for all county and township offices. The act was mandatory in each county containing cities having a population of 36,000 or over, and was optional in other counties. This board consisted of the same membership as at present and its members acted as election commissioners at the general election. This primary election included all political parties casting 10 percent of the total vote at the preceding general election, and was conducted by bipartisan precinct election boards paid from county funds.¹³

¹⁰ Alma Sickler Bender, *Why Go Back . . . from the Direct to the Convention System of Nomination*, p. 21.

¹¹ Acts 1889, ch. 87, secs. 17, 18, 26.

¹² Acts 1901, ch. 219, secs. 1-4, 6-11, 25.

¹³ Acts 1907, ch. 282, secs. 1, 2, 6, 10-15, 22, 57.

FUNCTIONS AND RECORDS

The present primary election law is mandatory as to each political party casting in the county for its candidate for Secretary of State 10 percent of the aggregate vote cast in the county for all candidates for Secretary of State at the last preceding general election. This law provides for the nomination of Congressional, county, township, and city candidates and the election of precinct committeemen and State convention delegates of all such political parties, 'all in one primary election held biennially, at the same time and place, on the first Tuesday after the first Monday in May, in the even-numbered years.¹⁴

The board of primary election commissioners supervises primary elections. It prepares and distributes all ballots used in the county (except for town primaries),¹⁵—the names of candidates being arranged thereon in alphabetical order.¹⁶ At all primary elections the Australian ballot is used. It is made up of the printed tickets of the several political parties qualified for participation in the election. The tickets of each party are on paper of a color not used for the tickets of the other parties, but all tickets are uniform in size.¹⁷

Between 30 and 60 days before any primary election the declaration of candidacy for the office of United States Representatives, State Senators and Representatives, and judicial officers (including the judge of the circuit court, prosecuting attorney, and justices of the peace) are filed by the candidates with the Secretary of State and are certified by him to the clerk of the circuit court; and during the same time the declarations of candidacy for other offices (except town offices and those voted on by the voters of the whole state) are filed by the candidates with the clerk of the circuit court. Nominations for these offices are made at the primary election.¹⁸

¹⁴ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1925, 1929; Burns 29-511 29-512, Baldwin 7196, 7197. Acts 1915, 1939; Burns, 1941 suppl., 29-532; Baldwin, 1939 suppl., 7218.

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." *State ex rel. Democratic Central Committee v. Superior Court*, 214 Ind. 322, 15 N. E. (2d) 373 (1938).

¹⁵ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

¹⁶ Acts 1915, 1937; Burns, 1941 suppl., 29-515; Baldwin, 1937 suppl., 7201.

¹⁷ Acts 1915, 1917; Burns 29-504, 29-514; Baldwin 7190, 7200.

¹⁸ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1933, 1935, 1941; Burns, 1941 suppl., 29-513; Baldwin, 1941 suppl., 7199. Acts 1915, 1931, 1935; Burns, 1941 suppl., 29-516; Baldwin, 1935 suppl., 7202. Acts 1915, 1929; Burns 29-531; Baldwin 7217. Acts 1933; Burns 29-1807; Baldwin 1167.

The prosecuting attorney is a judicial officer. *State ex rel. Freed v. Circuit Court*, 214

Nominations for delegates to the State conventions of the respective political parties are made by petitions filed with the clerk at least 30 days before the primary election. These delegates are elected at the primary election.¹⁹

Primary elections are conducted by the following officials in each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one pollbook holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote in the county for Secretary of State at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriff and pollbook holders are appointed in the manner in which they are appointed for general elections. Each of these officials except pollbook holders is allowed \$3 per day for his services rendered in connection with a primary election. The pollbook holders are paid by their respective political parties in a sum not to exceed \$3 per day.²⁰ The board of primary election commissioners may employ all necessary clerical assistants.²¹

The statutory provisions governing the manner of conducting general elections apply to all primary elections.²² All expenses of conducting primary elections are paid from public funds.²³

Certificates and petitions of nominations, ballots (cast and uncast), and tally papers at primary elections are filed in the office of the clerk of the circuit court where they are preserved for 6 months and are then destroyed, unless litigation requires preservation for a longer time.²⁴

Ind. 152, 14 N. E. (2d) 910 (1938); State ex rel. Spencer v. Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

¹⁹ Acts 1915, 1939; Burns, 1941 suppl., 29-532; Baldwin, 1939 suppl., 7218.

²⁰ Acts 1915, 1917; Burns 29-505, 29-507, 29-519; Baldwin 7191, 7193, 7205. Acts 1929, 1933, 1941; Burns, 1941 suppl., 29-804; Baldwin, 1941 suppl., 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096. Finerty v. Bryan, 214 Ind. 570, 16 N. E. (2d) 882 (1938). See the essay entitled "County Board of Election Commissioners."

²¹ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

²² Acts 1915; Burns 29-556, 29-559; Baldwin 7242, 7244.

²³ Acts 1915; Burns 29-534; Baldwin 7220. Acts 1933; Burns 29-1805; Baldwin 11637.

²⁴ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1889; Burns 29-1009; Baldwin 7113.

Acts 1897, 1901, 1909, 1941; Burns, 1941 suppl., 29-1301; Baldwin 1941 suppl., 7147. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911; Burns 29-2510; Baldwin 7447.

347. [ELECTION RECORD PRIMARY], 1916-. In Election Records, entry 351.

Sample ballots and record of ballots printed, distributed and returned in primary elections, showing information as in entry 351.

348. [ABSENT VOTER'S RECORD], Nov. 5, 1918-Nov. 1926. In Record of Absent Voters, entry 352.

Record of ballots cast by absentee voters in primary elections, showing information as in entry 352.

349. CANDIDATE EXPENSE, 1930-. 1 bdl.

Duplicate statements of primary and general election expenses filed by candidates for various public offices, showing dates of election and statement, names of candidate and office sought, and itemized statement of campaign expenses. Arr. chron. by date of statement. No index. Hdw. 10 x 10 x 8. Clk. vt.

XXX. COUNTY BOARD OF CANVASSERS

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of canvassers has existed in Marshall County ever since 1843 under the requirements of acts of 1843, 1852, 1881, and 1905. The county board which controls the holding of an election (board of primary election commissioners or county board of election commissioners) must also serve as the county board of canvassers at that election with no additional remuneration. From 1843 until 1905 the board was composed of the election inspectors of the several townships. The board has always designated one of its members to serve as chairman; and the clerk of the circuit court has always acted as its clerk.¹

FUNCTIONS AND RECORDS

Each precinct board of election,² after closing the polls in its precinct,³ views the ballots cast in that precinct;

¹ Rev. Stat. 1843, ch. 5, secs. 45-47. 1 Rev. Stat. 1852, ch. 31, secs. 31-33. Acts 1881 (Spec. Sess.), ch. 47, secs. 37-43. Acts 1905, 1927; Burns 29-1401, 29-1402; Baldwin 7377, 7378. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

² The organization of the precinct boards is discussed in the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

³ Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103, Baldwin 7103.

count those ballots which are legal; rejects those ballots which are illegal; marks on each ballot the word "counted" or the words "not counted"; makes notations as to rulings on protests; lists the number of votes counted in favor of each candidate; lists the number of votes counted for and against proposed constitutional amendments and other questions submitted to the voters for decision; and transmits in sealed bags to the county board of canvassers all ballots cast, ballots uncast, lists, tally papers, memoranda, and certificates.⁴ Information as to the results of the counting of ballots by each precinct board, as shown by its certificate delivered to the clerk of the circuit court, is immediately furnished by the clerk to newspaper reporters and editors.⁵

The members of the county board of canvassers are required to assemble at 6 p. m. on the day of each election, in the courtroom of the circuit court; to canvass and estimate the certificates, poll lists, and tally papers returned by each precinct board of election in the county;⁶ to compare and examine the papers entrusted to it; to aggregate and tabulate therefrom all votes cast in the county; and to declare in a certified statement the candidates nominated or elected for the county, and each city and township thereof, and the determination of any proposed constitutional amendment or other question submitted to the voters.⁷

In case of a tie vote for any office, the board declares that no person was elected for that office; and the clerk

⁴ Primary elections. Acts 1915, 1917; Burns 29-525; Baldwin 7211.

General elections. Acts 1876-17, ch. 9, secs. 11, 12. Acts 1817-18 (general), ch. 15, secs. 11, 12. Rev. L. 1874, ch. 35, secs. 11, 12. Rev. L. 1831, ch. 32, secs. 11, 12. Rev. Stat. 1838, ch. 32, secs. 13, 14. Acts 1897, 1901, 1909, 1941; Burns 1941 suppl., 29-1301; Baldwin, 1941 suppl., 7147.

⁵ Acts 1941; Burns, 1941 suppl., 29-1412; Baldwin, 1941 suppl., 7157-1.

⁶ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁷ Acts 1905; Burns 29-1404, 29-1405, 29-1407; Baldwin 7380, 7381, 7383. *Moore v. Kessler*, 59 Ind. 152 (1877).

Duty to disregard ballots improperly marked by voters. *Craney v. Traylor*, 214 Ind. 542, 16 N. E. (2d) 845 (1938).

Legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1503 to 29-1505; Baldwin 7180 to 7182.

Judges, prosecuting attorney, State officers, and Federal officers. Acts 1881 (Spec. Sess.); Burns 29-1506 to 29-1509; Baldwin 7183 to 7186.

Constitutional amendments. Const. 1851, art. 16, secs. 1, 2. Acts 1889; Burns 29-1201, 29-1202; Baldwin 7259, 7258. Acts 1911; Burns 29-1203 to 29-1207; Baldwin 7253 to 7257. *In re Todd*, 208 Ind. 168, 193 N. E. 865 (1935).

must certify the facts to the tribunal or officer required to fill vacancies in such office or to issue a writ of election to fill the office, as the case may require.⁸ In case of a tie vote, a city office is filled by appointment,⁹ a township office is filled by lot,¹⁰ and other offices are filled by special elections.¹¹

In case of a disagreement among the members of the county board of canvassers as to how the vote of any precinct shall be counted, the matter in dispute must be reported immediately to the judge of the circuit court for immediate determination.¹²

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff executes all process and orders directed to him by the board.¹³

The board of canvassers employs necessary clerical assistants for the proper canvassing and tabulating of votes. Not more than one-half of the clerks employed can be from the same political party, and their compensation must not exceed \$1 per hour.¹⁴

The canvass of votes in primary¹⁵ and special¹⁶ elections, including votes cast for city¹⁷ and township officers,¹⁸ is made in the same manner as in the general election.

The ballots cast, ballots uncast, certificates, statement of all votes tabulated, canvass sheets, pollbooks, and tally papers are delivered by the county board of canvassers to the clerk of the circuit court and filed and preserved by him in his office, open to the inspection of any legal voter. These

⁸ Acts 1905; Burns 27-1406; Baldwin 7382.

Tie vote for State Legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1503; Baldwin 7182.

⁹ Acts 1905, 1909; Burns 48-1246; Baldwin 11424.

¹⁰ Acts 1933; Burns 29-1903; Baldwin 7252.

¹¹ Acts 1881 (Spec. Sess.); Burns 29-1505, 29-1701; Baldwin 7182, 7249.

¹² Acts 1905; Burns 29-1409; Baldwin 7385.

¹³ Acts 1905; Burns 29-1408; Baldwin 7384.

¹⁴ Acts 1920 (Spec. Sess.); Burns 29-913; Baldwin 7158.

¹⁵ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1915; Burns 29-560; Baldwin 7245.

¹⁶ Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin 7249.

win 7249.

¹⁷ Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1803, 29-1807; Baldwin 11635, 11639.

¹⁸ Acts 1933; Burns 29-1903; Baldwin 7252.

are destroyed after 6 months unless litigation requires longer preservation.¹⁹

350. [RECORD OF VOTES], 1890-. In Election Records, entry 351.

Record of votes cast in primary and general elections, showing date of election; names of political party, office, and candidate; ward and precinct numbers; number of votes cast for each candidate by township, ward, and precinct; and total votes cast.

XXXI. COUNTY BOARD OF ELECTION COMMISSIONERS

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of election commissioners has existed in Marshall County ever since 1889 under the requirements of an act of 1889. The board consists of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairman).¹ The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof during the preceding year, must reside within the county after their appointment,² must serve as members of the county board of canvassers, and must take an oath to support the State and Federal Constitutions and faithfully discharge their duties.³ Each member of the board is allowed \$125 for his services at any general or special election.⁴

For sufficient legal causes any member of the county board of election commissioners may be removed from office by the circuit court, after trial by jury on an accusation

¹⁹ Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1905; Burns 29-1404; Baldwin 7380.

¹ Acts 1889; Burns 29-1002; Baldwin 7109.

² Const. 1851, art. 6, secs. 4, 6.

³ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Canvassers."

For the eligibility, election, term, oath, and bond of the clerk of the circuit court, see the essay entitled "Clerk of the Circuit Court."

⁴ Acts 1935; Burns, 1941 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1. Op. Atty. Gen. 1935, p. 320.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

presented by the grand jury or verified by oath of any person.⁵ If any member be convicted of a felony the judgment of conviction must declare his office vacant.⁶ The clerk of the circuit court fills vacancies as to members appointed by him.⁷

With the organization of Marshall County in 1836⁸ the board of county commissioners laid off townships⁹ and appointed an inspector of elections in each.¹⁰ Later the inspectors were elected by the township voters.¹¹ Blank forms of pollbooks and election returns were delivered by the sheriff to these inspectors before the election.¹² After 1852 the clerk of the circuit court delivered to the sheriff a certificate showing which offices were to be filled at the election. The sheriff posted a copy of this certificate at each usual place of holding elections, published it in some newspaper of the county, and delivered a copy to each township trustee¹³ or to the township clerk (to be delivered to the township trustee).¹⁴ The board of county commissioners designated the precincts,¹⁵ and furnished supplies (including blank forms and ballot boxes but not ballots).¹⁶ After 1881 the auditor furnished printed forms (but not ballots)¹⁷ and the board of county

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the essay entitled "Clerk of the Circuit Court" for vacancy in the office of clerk.

⁸ Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

⁹ Acts 1816-17, ch. 14, sec. 3. Acts 1817-18 (general), ch. 17, sec. 2. Acts 1819-20, ch. 21, sec. 1. Rev. L. 1824, ch. 36, sec. 4. Rev. L. 1831, ch. 33, sec. 4. Rev. Stat. 1838, ch. 34, sec. 5. Rev. Stat. 1843, ch. 2, sec. 1. 1 Rev. Stat. 1852, ch. 110, sec. 1.

¹⁰ Acts 1816-17, ch. 9, sec. 1; ch. 26, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, sec. 3. Rev. L. 1824, ch. 15, sec. 7; ch. 35, sec. 1; ch. 36, sec. 5. Rev. L. 1831, ch. 20, sec. 20; ch. 33, sec. 5. Acts 1832-33, ch. 70, sec. 15. Rev. Stat. 1838, ch. 21, secs. 20, 22. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69, 71. 1 Rev. Stat. 1852, ch. 31, sec. 4.

¹¹ Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, sec. 20. Rev. Stat. 1843, ch. 4, sec. 26; ch. 5, sec. 71.

¹² Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1. Rev. L. 1824, ch. 35, sec. 1.

¹³ Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082.

¹⁴ 1 Rev. Stat. 1852, ch. 31, sec. 2.

¹⁵ 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1881 (Spec. Sess.), ch. 47, sec. 8.

¹⁶ 1 Rev. Stat. 1852, ch. 31, secs. 11, 12.

¹⁷ Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

commissioners furnished the ballot boxes.¹⁸ Before 1889 voting was by ballot furnish by the voter.¹⁹ The president of the board of township trustees from 1853 to 1859²⁰—the township trustee since 1859—served ex officio as inspector of elections²¹ in the precinct in which he resided,²² and the board of county commissioners appointed inspectors in all additional precincts.²³ The election board of the precinct was composed of the inspector, election judges, and poll clerks. The judges were appointed by the inspector, and the clerks were appointed by the inspector and judges.²⁴ After 1881 they were chosen from the two political parties casting the highest number of votes in the last preceding general election.²⁵

For special elections under the former local option liquor laws, there was authorized in the county from 1908 to 1917 a special election commission consisting of the county auditor and two freeholders, appointed by the board of commissioners, one appointee favoring and the other opposing the sale of liquors.²⁶

Indiana, in 1889, was one of the first States to adopt the Australian ballot—an official ballot printed at public expense by public officers and distributed at the polls by the election officers. The board of election commissioners was established to prepare, print, and distribute the ballots and otherwise administer the election laws of the county.²⁷

FUNCTIONS AND RECORDS

The constitution fixes the date of general elections as

¹⁸ *Ibid.*, sec. 18.

¹⁹ Const. 1816, art. 6, sec. 2. Const. 1851, art. 2, sec. 13. Acts 1816-17, ch. 9, secs. 6-8, 11. Acts 1817-18 (general), ch. 15, sec. 8. Rev. L. 1824, ch. 35, secs. 6-8, 11. Rev. L. 1831, ch. 32, secs. 6-8, 11. Rev. Stat. 1838, ch. 32, secs. 6-8, 13. Rev. Stat. 1843, ch. 5, secs. 30-33, 40, 41. 44. Rev. Stat. 1852, ch. 31, sec. 17. Acts 1881 (Spec. Sess.), ch. 47, sec. 23.

²⁰ 1 Rev. Stat. 1852, ch. 31, sec. 3.

²¹ Acts 1859; Burns 65-105; Baldwin 16065. Holmes v. Board of County Comrs., 78 Ind. App. 205. 135 N. E. 154 (1922).

²² Acts 1881 (Spec. Sess.), ch. 47, sec. 10.

²³ 1 Rev. Stat. 1852, ch. 31, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, sec. 11.

²⁴ Acts 1817-18 (general), ch. 15, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

²⁵ Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

²⁶ Acts 1908 (Spec. Sess.), ch. 2, secs. 5-7. Acts 1911, ch. 7, secs. 5-8. These laws were repealed by Acts 1917, ch. 4, sec. 40.

²⁷ Acts 1889, ch. 87, secs. 17, 18, 26.

the first Tuesday after the first Monday in November,²⁸ and an act of the General Assembly provides that they be conducted biennially in the even-numbered years.²⁹ At least 20 days before the election the clerk of the circuit court makes a certificate stating which offices are to be filled at the election. Fifteen days before the election the sheriff delivers a copy of this certificate to each township trustee in the county, posts a copy at each usual place of holding such elections in the county, and causes the publication of a copy one time in a newspaper printed in the county.³⁰ The constitution further provides that all elections by the people must be by ballot.³¹ This provision does not prevent the use of voting machines³² (to be provided by the board of county commissioners).³³

The board of county commissioners establishes the precincts³⁴ and provides all polling places, voting booths, chutes, and ballot boxes;³⁵ and the auditor furnishes blank pollbooks and other forms to the inspectors.³⁶

The county board of election commissioners supervises general elections.³⁷ The State Board of Election Commissioners prepares and distributes to the county clerks the ballots for Federal offices, and for offices and questions to be voted on by the voters of the whole State. The county board of election commissioners prepares and distributes all other ballots used in the county (except for town elections).³⁸

²⁸ Const. 1851, art. 2, sec. 14 (as amended in 1881).

²⁹ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

³⁰ Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082. *Parmater v. State ex rel. Drake*, 102 Ind. 90, 3 N. E. 382 (1884).

³¹ Const. 1851, art. 2, sec. 13.

Marking of ballots by voters. *Craney v. Traylor*, 214 Ind. 542, 16 N. E. (2d) 845 (1938).

³² *Spickerman v. Goddard*, 182 Ind. 523, 107 N. E. 2 (1914).

³³ Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7148. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

³⁴ Acts 1889; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

³⁵ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

³⁶ Acts 1889; Burns 29-808; Baldwin 7097.

³⁷ Acts 1889; Burns 29-1116, 29-1117, 29-1119, 29-1120; Baldwin 7130, 7131, 7133, 7134. Acts 1903; Burns 29-2407; Baldwin 7355. Acts 1901; Burns 29-2410, 29-2426, 29-2428; Baldwin 7358, 7374, 7376.

³⁸ Acts 1889; Burns 29-1001 to 29-1003; Baldwin 7108 to 7110. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Acts 1889, 1891, 1907; Burns 29-1109; Baldwin 7124. *Op. Atty. Gen.* 1840, p. 168.

Ballot label for voting machines. Acts 1901; Burns 29-2410; Baldwin 7538.

Candidates nominated by convention or primary election by parties casting one-half of 1 percent of the total vote of the State at the last preceding general election, and whose nominations have been duly certified to the clerk of the circuit court, are placed on the ballot under their respective party emblems. Candidates' names may be placed on the ballot by the petition of the required number (one half of 1 percent of the total vote cast in the last preceding general election in the county) of qualified electors.³⁹ Political parties may be barred from the ballot if they advocate the overthrow, by force or violence, of the local, State, or National Government. New parties must file, with the election commissioners in charge of the ballot or ballots on which they wish to appear, an affidavit declaring that they do not advocate such an overthrow.⁴⁰

In each precinct there is a "precinct board of election" composed of one inspector and two election judges. The election is conducted by these boards. Each precinct board is assisted by two election sheriffs, two poll clerks, and (if necessary) two assistant poll clerks. No person is eligible to membership on a precinct board if he has a wager on the result of the election, or is a candidate or a relative of a candidate at that election, or is an elected or appointed public official. The township trustee is ex officio inspector in his own precinct. The other inspectors are appointed by the board of election commissioners on nominations made by the county chairman of the party casting the highest number of votes in the county for Secretary of State in the preceding election. The election judges, sheriffs, poll clerks, and assistant poll clerks are of opposite political faith and are appointed by the board of election commissioners on nominations made by the county chairmen of the two major political parties.⁴¹ For their services at general elections the precinct election officials may be compensated as follows: Each appointed inspector, \$8; each election judge, \$5; each poll clerk, \$5; each assistant poll clerk, \$5; and each election sheriff, \$3. A greater amount may be allowed if provision

³⁹ Acts 1897, 1919, 1933; Burns 29-1106; Baldwin 7120. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Board of Election Comrs. v. State ex rel. Sides, 148 Ind. 675, 48 N. E. 226 (1897); State ex rel. Garn v. Board of Election Comrs., 167 Ind. 276, 78 N. E. 1016 (1906).

⁴⁰ Acts 1935, 1941; Burns, 1941 suppl., 29-1015; Baldwin 1941 suppl., 7120-1.

⁴¹ Acts 1915, 1917; Burns 29-512; Baldwin 7198. Acts 1923, 1933, 1941; Burns, 1941 suppl., 29-804; Baldwin, 1941 suppl., 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

therefor is made by the board of county commissioners at least 15 days before the election. The township trustee receives no compensation for his services as election inspector.⁴² Each political party may appoint one challenger and one pollbook holder for each precinct, and may pay each of them compensation not exceeding \$3. These employees receive no compensation from public funds.⁴³

Since 1933 city⁴⁴ and township elections have been held at the time of the general election.⁴⁵ They are under the supervision of the county board of election commissioners,⁴⁶ as are all special elections.⁴⁷

Elections are open from 6 o'clock in the forenoon until 4 o'clock in the afternoon, after which time the precinct election board may close the election in any precinct at any time when all the electors of that precinct have voted or when 15 minutes have passed without a vote having been cast in that precinct. Elections are open until 6 o'clock in the afternoon unless previously closed as aforesaid.⁴⁸ All pencils used in marking the ballots must be destroyed before the counting of ballots begins.⁴⁹

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff serves all process in county elections and obeys orders of the board.⁵⁰

Records of all general elections are placed in sealed bags and filed in the office of the clerk of the circuit court for preservation as provided by statute.⁵¹

⁴² Acts 1920 (Spec. Sess.), 1933, 1941; Burns, 1941 suppl., 29-910; Baldwin, 1941 suppl., 7155.

Holmes v. Board of County Comrs., 78 Ind. App. 206, 135 N. E. 154 (1922).

⁴³ Acts 1929; Burns 29-806; Baldwin 7095.

⁴⁴ Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1801; Baldwin 11632.

⁴⁵ Acts 1933, 1935; Burns, 1941 suppl., 29-1941; Baldwin, 1935 suppl., 7250.

⁴⁶ Acts 1933; Burns 29-1803; Baldwin 11635.

⁴⁷ Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881; Burns 29-1704; Baldwin 7249.

⁴⁸ Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

⁴⁹ Acts 1915; Burns 29-1305; Baldwin 7457.

⁵⁰ Acts 1905; Burns 29-1408; Baldwin 7384.

⁵¹ Rev. L. 1824, ch. 35, sec. 14. Acts 1920 (Spec. Sess.); Burns 29-912; Baldwin 7157. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1897, 1901, 1909, 1941; Burns, 1941 suppl., 29-1301; Baldwin, 1941 suppl., 7147. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447. State ex rel. Kollmeyer v. Baker, 204 Ind. 18, 182 N. E. 537 (1932).

351. ELECTION RECORDS, 1890-. 2 vols. (1, 2).

Sample ballots and record of ballots printed, distributed, and returned in general elections, showing dates of election and certification of inspector; names of candidates, inspector, election commissioners, and township; and number of ballots printed, distributed, and returned. Also contains: Sample ballots and record of ballots printed, distributed, and returned in primary elections, 1916-, entry 347; record of votes, entry 350. Arr. chron. by date of election. No index. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

352. RECORD OF ABSENT VOTERS, Nov. 5, 1913-Nov. 1926. 2 vols. (1, 2).

Record of ballots cast by absentee voters in general elections, showing dates of application, mailing ballot, and election; name and home and mailing address of voter; name of township; and ward and precinct numbers. Also contains: Absent voters record, entry 348. Arr. chron. by date of election. No index. Hdw. 500 pp. 18 x 13 x 3. Bookroom 1.

353. RECORD OF APPOINTMENT OF ELECTION SHERIFFS, 1890-. 3 vols. (1; 2 vols. unlabeled).

Record of appointments of election sheriffs, showing date of appointment, name and political affiliation of appointee, name of township, and ward and precinct numbers. Arr. chron. by date of appointment. No index. Hdw. 200 pp. 15 x 10 x 1½. 1 vol., 1890-98, bookroom 1; 2 vols., 1899-, sher. off.

XXXII. COUNTY BOARD OF EDUCATION

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of education has existed in Marshall County ever since 1873 under the requirements of acts of 1873 and 1877. The board consists of the county superintendent of schools, the township trustees, and the president of the school board of each city and town in the county. Before 1877 all the school trustees of each city and town in the county were also included as members of the board.¹

¹ Acts 1873, 1877; Burns 28-801; Baldwin 5983. Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962. Op. Atty. Gen. 1933, p. 551.

Section 28-801 aforesaid provides: "The county superintendent [of schools], the trustees of the townships and the chairman of the school trustees of each town and city of the county shall constitute a county board of education."

Semiannual meetings of the board are held at the office of the county superintendent of schools on the first day of May and September, except that if such day is Sunday the meeting is held the next day. Other meetings may be held upon the call of the county superintendent. A majority of the board members constitutes a quorum. The county superintendent presides at the meetings and casts his vote in the same manner as the other members. The board elects a secretary from among its members.²

FUNCTIONS AND RECORDS

The county board of education considers the general needs of the public schools within the county (including the care of school property and the purchase of school furniture, books, maps, charts, and others supplies), and makes advisory regulations concerning the same (except as to matters expressly covered by law or by a regulation of the Indiana State Board of Education); directs the care and management of township libraries; and adopts textbooks for the schools in the county, except in cities. The State Board of Education has broad power to adopt textbooks which must be used in all the public schools in the State, but the county board may adopt supplementary textbooks on the same subjects. There are many curricular subjects on which textbooks are not adopted by the State Board. No textbook can be changed by the county board of education within 6 years after its adoption, except by the unanimous vote of all the members of the board.³

The county board of education may purchase textbooks from publishers at the net wholesale or contract price and sell them to the pupils at cost plus the cost of handling the books, not to exceed 20 percent of the cost price, or rent

Section 28-1201 aforesaid provides that the common council of each city and the board of trustees of each town shall "elect three school trustees" and that "such trustees shall constitute the school board of the city or town" and that "they shall . . . organize by electing one of their number president, one secretary and one treasurer."

The cited opinion of the Attorney General holds that the language "chairman of the school trustees of each town and city of the county" refers to the president of the town school board or city school board.

² Acts 1873, 1877; Burns 28-601; Baldwin 5633. Fassett A. Cotton, *Education in Indiana 1793 to 1934*, p. 257.

³ *Ibid.* Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675. Information obtained from Floyd I. McMurray, State Superintendent of Public Instruction, on February 2, 1940, by W. Davis Hamilton.

them to the pupils at an annual rental not to exceed 25 per cent of the retail price.⁴

Annually the board may appoint a school attendance officer for the county, known as the "county attendance officer." From 1897 to 1913 he was known as the "truant officer." The county superintendent of schools must annually nominate some person to be appointed county attendance officer, and must perform the duties of that office if the board makes no such appointment.⁵ Each year the board selects one of its members to serve on the county board of tax adjustment.⁶

Formerly the board participated in the appointment of a county agricultural agent and approved the expenses of the agent.⁷

The secretary of the board keeps a complete record of its meetings and proceedings.⁸

354. MINUTE RECORD, 1890-. 3 vols.

Minutes of meetings of county board of education, showing date of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by date of meeting. No index. Hdw. 500 pp. 18 x 12 x 3. Supt. off.

XXXIII. COUNTY SUPERINTENDENT OF SCHOOLS

LEGAL STATUS

The office of county superintendent of schools (known as "county superintendent" before 1927) has existed in Marshall County ever since 1873 under the requirements of acts of 1873 and 1899.¹ The county superintendent of schools is elected

⁴ Acts 1921; Burns 28-614; Baldwin 6692. Acts 1935; Burns, 1941 suppl., 28-638; Baldwin, 1935 suppl., 6692-1.

⁵ Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. Acts 1913, ch. 213, sec. 4. Acts 1921 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

Traveling expenses of attendance. Op. Atty. Gen. 1939, p. 132.

⁶ Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁷ Acts 1913, ch. 24, sec. 12. Superseded by Acts 1937; Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

⁸ Information obtained from Floyd L. McMurray, State Superintendent of Public Instruction, on February 2, 1940, by W. Davis Hamilton.

¹ Acts 1873, ch. 25. Acts 1899, ch. 143.

for a 4-year term by the township trustees and holds office until his successor is elected and qualified. The election is held in the auditor's office and the auditor acts as clerk of the election. In case of a tie vote the auditor casts the deciding vote.² To be eligible for this office a person must have had 5 years' successful experience as a teacher and must hold a first or second grade superintendent's license.³ The superintendent must post bond in the amount of \$5,000 (to be approved and filed by the auditor) and take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁴

Statutes provide that the county superintendent of schools shall receive from the county a regular salary of \$1,840 per year, that his salary may be increased by the county council after request therefor by a majority of the township trustees,⁵ and that he is to be reimbursed for his traveling expenses not

² Acts 1873, ch. 25, secs. 2-4, 6-8. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State ex rel. Nebecker v. Sutton, 99 Ind. 300 (1884); State ex rel. Laughlin v. Porter, 113 Ind. 79, 14 N. E. 883 (1888); State ex rel. Williams v. Edwards, 114 Ind. 581, 16 N. E. 627 (1888); State ex rel. Drummond v. Dillon, 125 Ind. 65, 25 N. E. 136 (1890); State ex rel. Morris v. McFarland, 149 Ind. 266, 49 N. E. 5 (1898).

A township trustee cannot participate in the election if he is a candidate for the office. Horning v. State ex rel. Gamble, 116 Ind. 458, 19 N. E. 151 (1888). Op. Atty. Gen. 1933, p. 229.

³ Acts 1927, ch. 142, sec. 1. Acts 1935; Burns, 1941 suppl., 5933-1. Acts 1923; Burns 28-4209; Baldwin 5920.

Residence and citizenship. State ex rel. Jeffries v. Kilroy, 86 Ind. 118 (1882). Op. Atty. Gen. 1907, p. 163; 1929, p. 242; 1933, pp. 89, 236.

⁴ Const. 1851, art. 15, sec. 4. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068.

⁵ Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1933, 1939; Burns, 1941 suppl., 49-1014; Baldwin, 1939 suppl., 7544. Op. Atty. Gen. 1938, p. 126.

The Constitution provides that "the salary of any officer fixed by this Constitution or by law" shall not "be increased during the term for which such officer was elected or appointed," and that the General Assembly shall not pass local or special laws "in relation to fees or salaries, except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required." Const. 1851, art. 4, sec. 22; art. 15, sec. 2 (as amended in 1926).

An increase in the compensation of the county superintendent of schools cannot become effective during the term of the incumbent. Op. Atty. Gen. 1939, p. 132.

The county superintendent of schools cannot receive compensation while holding over after expiration of his term and after his successor is elected and qualified. Edington v. Board of County Comrs., 105 Ind. App. 156, 13 N. E. (2d) 895 (1938).

to exceed \$300 per year.⁶ The board of commissioners must provide and furnish an office for the county superintendent and allow and pay all costs incurred by him for postage, stationery, and records required in the performance of his official duties.⁷

The county superintendent of schools is a member and beneficiary of the Indiana State Teachers' Retirement Fund.⁸ He cannot conduct or assist in conducting any "private or county normal school in this State" or receive any "pay or emolument from the management of such school."⁹ He may serve as a member of the State Board of Education if appointed to that board by the Governor.¹⁰ He is a member of the county board of education and presides at its meetings.¹¹

For sufficient legal grounds the county superintendent of schools may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹² If the superintendent of schools is convicted of a felony the judgment of conviction must declare his office vacant.¹³

Any vacancy in the office of county superintendent of schools is filled in the manner provided for the election for a full term. The person elected to fill the vacancy must post bond and take oath as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁴

The county superintendent of schools, with the approval of the township trustees may appoint an assistant. He is employed for such number of days as is necessary, and his compensation is fixed by the township trustees.¹⁵

⁶ Acts 1911, ch. 94, sec. 3. Acts 1921, ch. 54, sec. 3. Acts 1935; Burns, 1941 suppl., 28-708; Baldwin, 1935 suppl., 5934.

⁷ Acts 1899; Burns 28-707; Baldwin 5946.

⁸ Acts 1915, 1921, 1937, 1939; Burns, 1941 suppl., 28-4511; Baldwin, 1939 suppl., 6739.

⁹ Acts 1901; Burns 28-716 to 28-718; Baldwin 5954 to 5956.

¹⁰ Acts 1913; Burns 28-401; Baldwin 5906.

¹¹ See the essay entitled "County Board of Education."

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 28-703; Baldwin 5932. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *McComas v. Krug*, 81 Ind. 327 (1879); *Hufford v. Conover*, 139 Ind. 151, 38 N.E. 323 (1894).

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

¹⁵ Acts 1911, 1921; Burns 28-709; Baldwin 5937.

From 1836 until 1852 three county examiners were appointed by the circuit court. They examined teachers and granted teachers' licenses. They served for 1-year terms before 1838 and for indefinite terms thereafter.¹⁶ From 1853 until 1861 the board of commissioners annually appoint from one to three examiners.¹⁷ An act of 1861 required the board of commissioners to appoint one examiner for a term of 3 years to serve throughout the county. This examiner was given certain supervisory powers over the operation of schools. The inauguration of this function has been termed "the real beginning of rural school supervision in the State."¹⁸ The examiner conducted public examinations, issued licenses for periods from 6 months to two years, and had authority to revoke such licenses for cause. All licenses were limited to the county in which they were issued. He visited schools; advised with the trustees; endeavored to raise the educational standards of the schools; received all reports from teachers, trustees, and private schools and transmitted them to the State Superintendent of Public Instruction; aided and advised the township librarians; approved textbooks used in schools; advised trustees on school furnishings and equipment; and made such reports as were required by the State Department of Public Instruction.¹⁹ Encouragement of teachers' institutes and associations and additional regulations for teachers' examinations were added to his duties by an act of 1865.²⁰ An act of 1873 changed the officer's title to "county superintendent," transferred to the township trustees the power of appointment, made the county superintendent more responsible to the State Superintendent of Public Instruction, and gave the county superintendent advisory supervision of the schools of the county.²¹ An act of 1875, which was held unconstitutional in 1879, provided for the appointment of the county superintendent by the board of commissioners.²² An act of 1927 changed the title of this officer to "county superintendent of schools."²³ An act of 1923 gave

¹⁶ Acts 1833-34, ch. 220, sec. 4. Acts 1836-37 (general), ch. 2(14), sec. 3. Rev. Stat. 1838, ch. 94(4), sec. 3. Rev. Stat. 1843, ch. 15, secs. 133-135.

¹⁷ Acts 1853, ch. 106, sec. 6. Acts 1855, ch. 86, sec. 146.

¹⁸ Acts 1861, ch. 41, sec. 32. Fassett A. Cotton, *Education in Indiana* (1793-1934), p. 247.

¹⁹ Acts 1861, ch. 41, secs. 33-45.

²⁰ Acts 1865, ch. 1, secs. 33-42.

²¹ Acts 1873, ch. 25, secs. 2-4.

²² Acts 1875, ch. 89, sec. 1. *State v. Harrison*, 67 Ind. 71 (1879).

²³ Acts 1927, ch. 142, secs. 1, 2. Acts 1935, ch. 258, sec. 1, 2.

the State Board of Education exclusive jurisdiction to license school superintendents, supervisors, principals, teachers, attendance officers, and all other regular school employees.²⁴

FUNCTIONS AND RECORDS

The county superintendent of schools is an officer of the public school system of Indiana,²⁵ and constitutes the medium between the State Superintendent of Public Instruction and the "subordinate school officers and the schools."²⁶

The county superintendent exercises general supervision of those schools in Marshall County which are not within incorporated cities and towns;²⁷ carries out the orders of the State Board of Education and the State Superintendent of Public Instruction; visits the schools in session, at least once each year, for the purpose of increasing their usefulness and raising their scholastic standards as uniformly as practicable;²⁸ obtains the aid of the county agricultural agent in giving practical education in agriculture and domestic science;²⁹ cooperates with the State Board of Education in carrying out the provisions of the law requiring the teaching of the nature of alcoholic drinks and narcotics and their effects on the human system;³⁰ provides for the examination of applicants for graduation from the common and high schools of the townships, districts, and towns, and furnishes the certificates of graduation; and attends commencements of the common and high schools of the townships and towns.³¹

The county superintendent keeps a complete record of licenses held by the school teachers, county attendance officer, and other regular school employees working in the county (other than those of town and city schools);³² reports to the school

²⁴ Acts 1927; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928. Information obtained from Floyd I. McMurray State Superintendent of Public Instruction, on November 14, 1939, by W. Davis Hamilton.

²⁵ State ex rel. Osborn v. Eddington, 203 Ind. 160, 195 N. E. (1935).

²⁶ Acts 1899; Burns 28-704; Baldwin 5938.

²⁷ Acts 1899; Burns 28-704, 28-705; Baldwin 5938, 5940. Acts 1873; Burns 28-1401; Baldwin 5873.

²⁸ Acts 1921; Burns 28-205; Baldwin 5939. Acts 1899; Burns 28-704; Baldwin 5938.

²⁹ Acts 1913, 1923, 1927, 1937; Burns 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

³⁰ Acts 1933; Burns 28-3410; Baldwin 6021.

³¹ Acts 1899; Burns 28-706; Baldwin 5942.

³² This record shows the kind and grade of licenses, the success grade, the date of first employment, and monthly or annual salary. Acts 1923; Burns 28-4217; Baldwin 5928.

corporations as to teachers' preparation, experience, and licenses before they are employed;³³ conducts teachers' meetings and institutes;³⁴ notifies teachers of their "duties and obligations" under the law concerning teachers' pensions; sees that these "duties and obligations" are stated in the teachers' contracts; and reports to the board of Trustees of the Indiana State Teachers' Retirement Fund information needed by that board for the administration of the retirement fund.³⁵

The county superintendent of schools annually nominates a county attendance officer to be appointed by the county board of education; serves as such attendance officer if one is not appointed. in which event the county superintendent may designate one or more teachers to serve as assistant attendance officers; supervises the work of the county attendance officer; authorizes or prosecutes legal proceedings for the enforcement of the school attendance laws;³⁶ issues work permits and absence permits for children;³⁷ and arranges for examination of children by physicians and other experts as a basis for the establishment of special classes for children who are physically handicapped or mentally retarded, and those regarded as "problem children."³⁸

The county superintendent authorizes the removal and relocation of township school buildings;³⁹ acts with the county assessor and auditor in determining the value of school buildings and equipment to be purchased by a township from a school town;⁴⁰ appoints depository merchants and dealers for the sale of school books;⁴¹ and joins with each township

³³ Acts 1927, 1933; Burns 28-4309; Baldwin 6005.

³⁴ Acts 1865, ch. 1, secs. 159-161. Acts 1899; Burns 28-704, 28-706; Baldwin 5938, 5942.
Acts 1907, 1929, 1933; Burns 28-4401, 28-4402; Baldwin 6728, 6725.

³⁵ These reports must show the teachers' pension account numbers and such other information as is required by the pension board. Acts 1915, 1921, 1937, 1939; Burns, 1941 suppl., 28-4511(g); Baldwin, 1939 suppl., 6739(g).

³⁶ Acts '921, 1932 (Spec. Sess.); Burns 28-501, 28-502; Baldwin 6693, 6694.

³⁷ Acts 1921, 1929; Burns 28-505, 28-519; Baldwin 6698, 6712.

Mental unfitness. In re Morton, 79 Ind. App. 5, 137 N.E. 62 (1922).

³⁸ Acts 1927; Burns 28-3502; Baldwin 6077.

³⁹ Acts 1893; Burns 28-2701; Baldwin 6104.

⁴⁰ Acts 1919; Burns 28-1209; Baldwin 6247.

⁴¹ Acts 1907, 1913; Burns 28-610; Baldwin 6681.

The county superintendent cannot "deal in school books in his official capacity." Acts 1907; Burns 28 611; Baldwin 6682.

trustee in making regulations concerning the free use of school books in the several school libraries.⁴²

The county superintendent examines and verifies certificates, presented by township trustees, for aid from the State common school relief fund;⁴³ receives from the township trustees and the school trustees of cities and towns copies of their reports to the board of commissioners concerning "special school revenue" and the "school revenue for tuition";⁴⁴ reports to the county auditor the basis for the apportionment of school revenues;⁴⁵ receives semiannual reports from the county auditor showing the precise amount of "school revenue for tuition" in the county ready for apportionment and distribution;⁴⁶ sees that the interest on the common school fund is apportioned, and that proper warrants are issued in case of "loss of any school fund or revenue" or "a deficit of interest of any school fund";⁴⁷ and inspects the official dockets, records, and books of accounts of the clerks of courts, county auditor, board of commissioners, justices of the peace, prosecuting attorney, mayors of cities, and township and school trustees to ascertain if any of said officers have neglected to collect and pay to the school funds any revenues belonging to such funds, and he institutes judicial proceedings when such neglect is found.⁴⁸

The county superintendent will appoint three members of the county library board when such board is established in the county. He appoints two members of any city library board which receives aid from the county.⁴⁹ From 1919 until 1935

⁴² Acts 1935; Burns, 1941 suppl., 28-628; Baldwin, 1935 suppl., 6677-5.

⁴³ Acts 1921, ch. 201, secs. 4, 5. Acts 1931, ch. 163, secs. 4, 5, 13. Acts 1933, ch. 167, sec. 12. Acts 1933; Burns 28-903, 28-904; Baldwin 6433, 6434.

⁴⁴ These reports are made annually unless the board of commissioners requires that they be made more often. Acts 1865, 1873, 1883; Burns 28-2412; Baldwin 6498.

⁴⁵ Acts 1863; Burns 28-715; Baldwin 5949.

⁴⁶ Acts 1865, 1873, 1897; Burns 28-1009; Baldwin 6486.

⁴⁷ Acts 1873, 1875; Burns 28-711; Baldwin 5951. Acts 1865; Burns 28-715; Baldwin 5949.

⁴⁸ Acts 1873; Burns 28-712; Baldwin 5950. Moore v. State ex rel. Denny, 55 Ind. 360 (1876); Nichols v. State ex rel. Clerk, 65 Ind. 512 (1879); Carr v. State ex rel. Attorney General, 81 Ind. 342 (1882).

The county superintendent cannot enjoin school trustees from unlawfully paying out school funds. McGreggor v. State ex rel. Ballard, 31 Ind. App. 483, 68 N. E. 315 (1903).

⁴⁹ Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510, 41-514; Baldwin, 1939 suppl., 10321, 10325.

he annually awarded two scholarships to Indiana University.⁵⁰

The county superintendent hears and decides appeals from township trustees concerning "the legality of school meetings," the establishment of schools, the location, building, repair, or removal of schoolhouses, the "transfer of persons for school purposes," the transfer of pupils from one school corporation to another, the transportation of such transferred pupils to and from school, the resignation and dismissal of teachers, and other school matters.⁵¹ He casts the deciding vote in case of a tie vote concerning the management and control of any high school operated jointly by two or more school corporations in the county.⁵² In many cases his acts and decisions are reviewable on appeal to the State Superintendent of Public Instructions.⁵³

The county superintendent receives annual statistical reports from township trustees and the school trustees of cities and towns;⁵⁴ cooperates in the examination of schools by inspectors of the State Board of Education; makes reports as required by such inspectors;⁵⁵ and makes annual reports to the State Superintendent of Public Instruction concerning the condition of the schools and schoolhouses, the progress of education, the average daily attendance of school children (substituted for the enumeration of children of school age in 1932) as the basis for distributing school revenues and such additional statistics and information concerning public and private schools as is required by the State Superintendent.⁵⁶

All of the records of the county superintendent of schools are in his office except as otherwise indicated in the entries.

⁵⁰ Acts 1919, ch. 185, sec. 1. Acts 1935, ch. 45, sec. 1.

⁵¹ Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 28-2405; Baldwin 5952. Acts 1901; Burns 28-3705; Baldwin 6286. Acts 1935; Burns, 1941 suppl., 28-3718; Baldwin, 1935 suppl., 6292-2. Acts 1917; Burns 28-3801; Baldwin 6271. State ex rel. Stewart v. Miller, 193 Ind. 492, 141 N. E. 60 (1923); Brumfield v. State ex rel. Wallace, 206 Ind. 647, 190 N. E. 863 (1934). Op. Atty. Gen. 1938, p. 3(2).¹

⁵² Acts 1911, 1915; Burns 28-2652; Baldwin 6171.

⁵³ Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 28-2405, 28-2407; Baldwin 5952. 5953.

⁵⁴ Acts 1865, 1873, 1883; Burns 28-2414; Baldwin 5974.

⁵⁵ Acts 1921; Burns 28-305; Baldwin 5939.

⁵⁶ Acts 1865, 1873, 1895; Burns 28-713 to 28-715; Baldwin 5947 to 5949, Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin, 6490.

REPORTS

355. ESTIMATE OF EXPENSES, 1924-. 1 f. d.

Contains:

- i. Copies of budget estimates submitted to county council, showing date of estimate, number of school units, pupils, and teachers, itemized estimate of expenses in each unit, and total for county. Arr. chron. by date of estimate.
- ii. Copies of superintendent's annual financial reports to State Superintendent of Public Instruction, 1925-, showing information as in paragraph iii. Arr. chron. by date of report.
- iii. Township trustees' annual financial reports to county superintendent, 1925-, showing date of report and period covered; name of township; date, amount, and source of receipts; date, nature, and amount of expenditures; amounts of balance at beginning and closing of period; amounts of outstanding bonds and orders; and interest rate. Arr. chron. by date of report.

No index. Hdw. 12 x 14 x 26.

356. SCHOOL OFFICER'S REPORT TO TRUANT OFFICER, 1901.
1 vol.

Record of teachers' reports to truant officer of pupils absent from school, showing name and age of pupil, number of days absent, and names of school teacher. Arr. alph. by name of pupil. No index. Hdw. 50 pp. 9 x 6 x ½. Bookroom 2.

TEACHERS

357. RECORD OF TEACHERS' EXAMINATION, 1890-1923. 4 vols. Record of examinations for teachers' licenses, showing date of examination, name and address of teacher, subjects and grades of examination, general average grade, and result of examination. Arr. chron. by date of examination. No index. Hdw. 150 pp. 12 x 8 x 1.

358. TEACHERS' SUCCESS GRADE, 1891-. 1 f. d., 20 bdl. Teachers' success schedules, showing date of schedule, name and address of teacher, names of township and school, number of months of school term and grades taught, success grade, and list of professional qualifications. Arr. chron. by date

of schedule. No index. Hdw. F. d., 12 x 14 x 26; bds., 8 x 10 x 4.

PUPILS

359. ELEMENTARY SCHOOL-PERMANENT RECORDS, 1930-. 6 f. d. Card records of enrollment of elementary pupils, showing dates of enrollment and withdrawal or graduation; name, address, and date and place of birth of pupil; name, address, and occupation of parents or guardian; names of school attended and township; subjects studied and grades achieved; attendance, employment, and health record; and extra curricular activities. Arr. by names of and alph. thereunder by name of pupil. No index. Hdw. 9 x 14 x 25.

360. INWOOD HIGH SCHOOL RECORD, 1911-25. 1 vol. Record of attendance of pupils of Inwood High School, showing school term, name and address of pupils, names of teacher and subjects studied, number of credits received, and attendance record. Arr. by years of school terms and alph. thereunder by names of pupils. No Index. Hdw. 200 pp. 18 x 12 x 1.

361. AGE CERTIFICATES, 1927-. 1 f. d. Card record of work permits issued to pupil, showing date of permit; name, age, address, and physical condition of pupil; date and place of birth; names of employer and township; and nature of employment. Arr. alph. by name of pupil. No index. Hdw. 12 x 14 x 26.

MAPS

362. STATE HIGHWAY MAP, 1937. 1 map. Communication map of Indiana, showing date of map; county and township boundary lines; names and locations of cities, towns, and railroads; and location of highways and police radio stations. Drawn and published by Haywood Publishing Co., Lafayette, Indiana. Ptd. Scale: 1" to 10 mi. 36" x 24."

363. MAP OF MARSHALL COUNTY, 1931. 1 map. Communication map of Marshall County, showing date of map; township boundary lines; names and locations of cities, towns, schools, railroads, highways, and streams. Published by Stacy Map Publishers, Rockford, Illinois. Ptd. No scale given. 32" x 32".

XXXIV. COUNTY ATTENDANCE OFFICER

LEGAL STATUS

The office of county attendance officer (known as "truant officer" before 1913) has existed in Marshall County ever since 1897 under the provisions of Acts of 1897, 1899, 1901, 1913, 1921, and 1932. The attendance officer is nominated by the county superintendent of schools, is appointed by the county board of education for a 1-year term beginning on August 1, and holds office until his successor is appointed and qualified. As many attendance officers as are needed may be appointed. When no attendance officer is appointed, the county superintendent of schools is ex officio attendance officer with no additional compensation and may designate one or more teachers of the township schools to act as assistant attendance officers without additional compensation.¹ The county superintendent of schools is now serving as ex officio attendance officer in Marshall County.

An attendance officer must have completed the course of instruction required in the elementary public schools and possess such other qualifications as may be prescribed by the State Board of Attendance;² must reside in the county after his appointment; must not hold any other lucrative office;³ and must take an oath to support the State and Federal Constitutions and faithfully perform the duties of his office.⁴

He receives compensation fixed by the county board of education at not less than \$3 nor more than \$5 per day for each day of actual service. He is reimbursed for the actual expenses necessarily incurred by him in the proper performance of his duties.⁵

The State Board of Attendance has power to remove any county attendance officer for incompetence or neglect of duty.⁶ For sufficient legal causes set forth in an accusation presented by the grand jury or verified by the oath of any person, he may be removed by the circuit court after trial

¹ Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-501, 28-502; Baldwin 6693, 6694.

² Acts 1921, 1932 (Spec. Sess.); Burns 28-503; Baldwin 6695.

³ Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁴ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

⁵ Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6694.

⁶ *Ibid.*

by jury. If he be convicted of a felony, the judgment of conviction must declare his office vacant.⁸

From 1897 until 1932 the appointment of a county attendance officer was mandatory. From 1897 until 1901 he was appointed by the county superintendent of schools, the secretary of the State Board of Charities, and a member of the State Board of Education. From 1913 until 1921 he acted as probation officer in counties with less than 25,000 inhabitants.⁹

FUNCTIONS AND RECORDS

All township schools in the county are within the jurisdiction of the county attendance officer, whether appointive or ex officio. An appointive attendance officer also has jurisdiction over each town school in the county that has no separate appointive attendance officer.¹⁰

The county school attendance officer works under the general supervision of the State Attendance Officer¹¹ and under the rules, direction, and control of the county superintendent of schools; maintains an office at a place designated by the superintendent; is on duty during school hours and such other times as required by the superintendent;¹² and enforces the provisions of the compulsory attendance laws.¹³

He inspects the attendance records kept by teachers; makes inquiries of teachers concerning attendance of school children;¹⁴ visits the homes of children who are absent from school or who are reported to be in need of books, clothing, or parental care; visits places where minors are employed, and makes inquiries and inspections thereat for the purpose of determining whether there are violations of the compulsory attendance laws;¹⁵ serves written notices on parents, guardians,

⁷ Acts 1897; Burns 49-821 to 49-833, 49-836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1899; Burns 49-834; Baldwin 13050.

⁹ See footnote 1 herein.

¹⁰ Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6663.

¹¹ Acts 1921; Burns 28-504; Baldwin 6697.

¹² Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6664.

¹³ *Ibid.*

¹⁴ Acts 1921; Burns 28-511; Baldwin 6701.

¹⁵ Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 3. Acts 1921, 1932 (Spec. Sess.); Burns 28-102; Baldwin 6664.

or custodians whose children are illegally out of school;¹⁶ and serves original and other processes in cases arising under the provisions of the compulsory attendance laws.¹⁷

He brings suit for enforcement of the provisions of the compulsory attendance laws, with the approval of the county or town superintendent, the State Attendance Officer, or the State Board of Attendance.¹⁸ The superintendent and the attendance officer, acting together, may report to the circuit court any child who habitually absents himself from school and request that such child be declared a confirmed truant and be sentenced to the Indiana Boys' School, the Indiana Girls' School, some other custodial institution, to the care of a probation officer or the attendance officer acting as special probation officer.¹⁹

When a teacher reports to him that any school child is unclean or infested with vermin, the attendance officer gives notice to the child's parent or guardian requiring him to correct such condition. He must arrest and prosecute the parent or guardian who does not comply with the notice; and must have such child bathed and cleansed when so ordered by the superintendent.²⁰

On the request of the overseer of the poor of any township, and with the approval of the board of county commissioners, the attendance officer must serve as an investigator of the poor in any township in the county with all the duties and powers of an investigator.²¹

He must keep such records and make such reports as are required by the State Board of Attendance and the superintendent.²²

It is a criminal offense for any person to hinder or delay the attendance officer in the performance of his official duties.²³

No records of the county attendance officer were found in this county.

¹⁶ Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-502, 28-503; Baldwin 6694, 6701.

¹⁷ Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6694.

¹⁸ *Ibid.* Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4.

¹⁹ Acts 1921; Burns 28-509, 28-516; Baldwin 6702, 6709.

²⁰ Acts 1911; Burns 28-2902; Baldwin 6135.

²¹ Acts 1933; Burns 52-139; Baldwin 6695.

²² Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6694.

²³ Acts 1921; Burns 28-517; Baldwin 6710.

XXXV. COUNTY HEALTH OFFICER

LEGAL STATUS

The office of county health officer has existed in Marshall County ever since 1938 under the requirements of an act of 1935, which became effective on January 1, 1938. The county health officer is appointed for a 4-year term by the board of commissioners with the approval of the Indiana State Board of Health.¹ He holds office for such term and until his successor is appointed and qualified.² A new term of office begins each 4th year after January 1, 1938.³ The board of commissioners determine whether he shall be a "full-time" officer or a "part-time" officer. He is now a part-time officer.⁴

Two or more counties may be formed into a health district in charge of a full-time official known as a district health officer. Marshall County is not in such a health district.⁵

A health officer must be a regular licensed physician, legally qualified to practice medicine in Indiana and suitably trained in sanitary science;⁶ must have resided in the county for 1 year next preceding his appointment;⁷ must reside within the county after his appointment;⁸ must not hold any other lucrative office when serving as a full-time health officer;⁹ and must take an oath of office to support the State and Federal Constitutions and faithfully discharge the duties of his office.¹⁰

A part-time county health officer receives an annual salary in an amount equal to 3 cents for each person residing within

¹ Const. 1816, art. 11, sec. 15. Const. 1851, art. 15, secs. 1, 2. Acts 1935; Burns, 1941 suppl., 35-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7.

² Const. 1851, art. 15, sec. 3. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

³ Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

⁴ Acts 1935; Burns, 1941 suppl., 35-122, 35-128; Baldwin, 1935 suppl., 8404-5, 8404-11. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on January 17, 1941, by William E. Chambers.

⁵ Acts 1935; Burns, 1941 suppl., 35-125; Baldwin, 1935 suppl., 8404-8. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on January 17, 1941, by William E. Chambers.

⁶ Acts 1909, ch. 144, sec. 6. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

⁷ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁸ Const. 1816, art. 11, sec. 6. Const. 1851, art. 6, sec. 6.

⁹ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

¹⁰ Const. 1851, art. 15, sec. 4.

the area included in his territorial jurisdiction, provided that his salary must be between \$200 and \$1,800 per year. A part-time county health officer may also serve as a part-time city health officer but his compensation from the two offices cannot exceed \$1,800 per year. A full-time county health officer receives an annual salary in an amount fixed by the board of commissioners.¹¹ With the approval of the board of commissioners and the State Board of Health, a health officer is permitted to receive gifts and other financial assistance from private individuals, private corporations, the State, and the United States.¹² A retiring health officer cannot receive his last month's pay until all books are surrendered and all reports are properly made.¹³

The health officer may appoint necessary deputies and assistants to serve during certain emergencies.¹⁴ The necessary operating expenses of this office must be provided by the board of commissioners and he is entitled to reimbursement for all traveling expenses necessarily incurred by him in the discharge of his official duties.¹⁵

The health officer may be removed from office by the board of commissioners or the State Board of Health.¹⁶ If he is convicted of a felony the judgment of conviction must declare his office vacant.¹⁷

Any vacancy in his office is filled through appointment by the board of commissioners with approval of the State Board of Health. The appointee holds office for the unexpired term of his predecessor and until the appointee's successor is appointed and qualified.¹⁸

From 1881 to 1909 the board of commissioners constituted, ex officio, the county board of health and annually appointed a

¹¹ Acts 1881, ch. 19, sec. 8. Acts 1891, ch. 15, sec. 8. Acts 1935; Burns, 1941 suppl., 35-118, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-7. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on November 25, 1940, by W. Davis Hamilton.

¹² Acts 1935; Burns, 1941 suppl., 35-127; Baldwin, 1935 suppl., 8404-10.

¹³ State Board of Health, *Book of Instructions to Health Authorities*, Rule 7(2), p. 12.

¹⁴ *Ibid.*, Rule 1, p. 9.

¹⁵ Acts 1935; Burns, 1941 suppl., 35-118, 35-122; Baldwin, 1935 suppl., 8404-1, 8404-5. Acts 1903; Burns 35-406; Baldwin 8536. Op. Atty. Gen. 1924, p. 232, 1938, p. 11.

¹⁶ Acts 1909, ch. 144, sec. 6. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

¹⁷ Const. 1851, art. 6, sec. 8. Acts 1899; Burns 49-834; Baldwin 13050.

¹⁸ Const. 1931, art. 6, sec. 9; art. 15, sec. 3. Acts 1899, ch. 16, sec. 2. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1925 suppl., 8404-1.

secretary, who was a physician and served as county health officer. The law provided that the secretary must render medical and surgical services to the inmates of the county jail and other county institutions.¹⁹ An act of 1891 enlarged the duties of the board.²⁰ In 1909 the county board of health was abolished and the office of county health commissioner was created. He was appointed by the board of commissioners for a 4-year term. The law of 1935, which is mentioned in the first paragraph of this essay, superseded the act of 1909.²¹

FUNCTIONS AND RECORDS

The territorial jurisdiction of a county health officer extends throughout the county, except that a full-time county health officer has no jurisdiction of the area within a city having a full-time health officer and a part-time county health officer has no jurisdiction in a city which has a full-time or a part-time health officer. The jurisdiction of a district health officer (hereinafter treated as a county health officer) extends throughout all counties in his district, except in cities having a full-time health officer.²²

The health officer protects and supervises the general health and sanitation within his territorial jurisdiction;²³ enforces the public health statutes of the State and the rules of the State Board of Health, subject to appeal by any aggrieved person to the State Board of Health;²⁴ condemns buildings which are unfit for human habitation;²⁵ orders improvements in or about buildings when necessary to health;²⁶ must acquaint himself thoroughly with the work of the State

¹⁹ Acts 1881, ch. 19, secs. 8, 9, 11. Acts 1889, ch. 122, sec. 1. Acts 1891, ch. 15, secs. 8, 9, 11. Acts 1899, ch. 16, secs. 2, 4, 5, 8.

²⁰ Acts 1891, ch. 15, sec. 8. Acts 1899, ch. 16, sec. 8.

²¹ Acts 1909, ch. 144, secs. 4, 6. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

²² Acts 1935; Burns, 1941 suppl., 35-122, 35-124, 35-128; Baldwin, 1935 suppl., 8404-5, 8404-7, 8404-11. State Board of Health, *op. cit.*, p. 3. Op. Atty. Gen. 1938, p. 93.

²³ Acts 1899, ch. 16, sec. 8. Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1941 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

²⁴ Acts 1881, ch. 19, sec. 9. Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

The rules established by the State Board of Health have the force of statutes. *Blue v. Beach*, 155 Ind. 121, 130, 56 N. E. 89 (1900); *Isonhour v. State*, 157 Ind. 517, 521, 62 N. E. 40 (1901).

²⁵ Acts 1917; Burns 35-1801; Baldwin 8563.

²⁶ Acts 1917; Burns 35-1802; Baldwin 8564.

laboratory of bacteriology and pathology and with the prescribed methods of preparing the various kinds of specimens for examining at that laboratory;²⁷ keeps available to physicians a complete supply of approved mailing outfits for specimens to be sent to the State laboratory of bacteriology for examination;²⁸ aids in procuring, free of charge for the use of the poor, insulin, antirabic and smallpox virus, typhoid bacterins, and antitoxins and antiseptic serums for diphtheria, scarlet fever, and tetanus (lockjaw), and makes reports thereon to the State Board of Health;²⁹ gives information and assistance for obtaining free medical and surgical services, nursing, and hospitalization, when available;³⁰ and attends conventions and conferences of health officials when called by the State Board of Health.³¹

He receives reports and information concerning births,³² marriages,³³ certain diseases,³⁴ and deaths;³⁵ keeps permanent records thereof;³⁶ makes reports to the State Board of Health

²⁷ State Board of Health, *op. cit.*, Rule 1, p. 32.

²⁸ *Ibid.*, Rule 2, p. 32.

²⁹ Acts 1907, 1919, 1929, 1935; Burns, 1941 suppl., 35-701, 35-702, 35-710; Baldwin, 1935 suppl., 13392, 13393, 13395-1.

³⁰ Acts 1907, 1919, 1929, 1935; Burns, 1941 suppl., 35-701, 35-703; Baldwin, 1935 suppl., 13392, 13394. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on November 25, 1940, by W. Davis Hamilton.

³¹ Acts 1903; Burns 35-406; Baldwin 8536.

³² Acts 1881, ch. 19, secs. 7, 9-13. Acts 1891, ch. 15, secs. 9, 10, 12. Acts 1899, ch. 16, sec. 4. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. Acts 1911; Burns 35-901; Baldwin 8558. Acts 1939; Burns, 1941 suppl., 35-805; Baldwin, 1929 suppl., 8557-2. State Board of Health, *op. cit.*, pp. 3, 7; Rules 2, 4, pp. 9-11.

³³ Acts 1881, ch. 19, secs. 7, 9-13. Acts 1891, ch. 15, secs. 9, 12. Acts 1899, ch. 16, sec. 3. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. State Board of Health, *op. cit.*, p. 3; Rules 1(2), 2, 5, pp. 9, 11.

³⁴ Acts 1881, ch. 19, sec. 9. Acts 1891, ch. 15, sec. 9. Acts 1899, ch. 16, secs. 3, 4. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. Acts 1903; Burns 35-401 to 35-403; Baldwin 8531 to 8533. Acts 1917; Burns 35-601 to 35-603; Baldwin 8492, 8552, 8553. Acts 1939; Burns, 1941 suppl., 35-805; Baldwin, 1939 suppl., 8557-2. Acts 1911; Burns 35-903, 35-904; Baldwin 8560, 8561. Acts 1935; Burns, 1941 suppl., 35-2207; Baldwin, 1935 suppl., 8131-7. State Board of Health, *op. cit.*, Rules 1, 6, 10, 16, 24, 40, 53, 54, FD4(12), FD25(9), FD43(7-d), pp. 9, 11, 13, 15, 25, 27, 30, 49, 63, 76.

³⁵ Acts 1881, ch. 19, secs. 7, 9-13. Acts 1891, ch. 15, secs. 9-12. Acts 1899, ch. 16, secs. 3, 4. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. State Board of Health, *op. cit.*, pp. 3, 4; Rules 2-4, pp. 9, 10.

³⁶ See footnotes 32-35 herein.

concerning such births,³⁷ marriages,³⁸ diseases,³⁹ and deaths;⁴⁰ issues permits for transportation and burial of dead human bodies and sends reports thereof to the State Board of Health;⁴¹ has supervision over funerals in case of death from certain diseases;⁴² notifies the county coroner when he finds evidence that a death was caused by violence or criminal practice or that a dead human body was buried or otherwise disposed of without a permit;⁴³ and prepares and delivers to the clerk of the circuit court on his request a list of names and addresses of deceased voters of the county.⁴⁴

He inspects places used for the sale of food to the public, or for the manufacture, storage, distribution, or transportation of food for such sale; reports to the State Board of Health any conditions at such places which may transmit, generate, or promote disease;⁴⁵ orders the abatement of public nuisances, and notifies the prosecuting attorney if such order be disobeyed;⁴⁶ makes medical examinations of persons required by law to have health certificates in order to engage in certain occupations involving the handling of food and food materials, and issue health certificates to such persons when free of communicable disease; designates physicians to make such medical examinations and issue such health certificates;⁴⁷ directs the cleaning and disinfecting of milk containers before their removal from places at which certain diseases existed;⁴⁸

³⁷ See footnote 32 herein.

³⁸ See footnote 33 herein.

³⁹ See footnote 34 herein.

⁴⁰ See footnote 35 herein.

⁴¹ Acts 1907, 1913; Burns 35-115; Baldwin 8398. State Board of Health, *op. cit.*, Rule 44, p. 28.

⁴² Acts 1903, 1915; Burns 35-409; Baldwin 8539.

⁴³ Acts 1907, 1913; Burns 35-115; Baldwin 8398.

⁴⁴ Acts 1925, ch. 138, sec. 1 (repealed by Acts 1927, ch. 195, sec. 1). Acts 1933; Burns 29-321; Baldwin 7319.

⁴⁵ Acts 1891, 1909; Burns 35-111, 35-1003; Baldwin 8405, 8512. Acts 1919; Burns 35-1108; Baldwin 8521. Acts 1907, 1911; Burns 35-1203; Baldwin 8450. Acts 1911; Burns 35-1507; Baldwin 8502.

⁴⁶ Acts 1891, 1909; Burns 35-111; Baldwin 8405. State Board of Health, *op. cit.*, pp. 5, 6, 91.

⁴⁷ Bakery. Acts 1919; Burns 35-1103; Baldwin 8516.

Milk. State Board of Health, *op. cit.*, Par. 31(b), p. 53.

Cheese. *Ibid.*, Par. 7(b), p. 76.

Ice cream. *Ibid.*, Par. 8(b), p. 63.

⁴⁸ *Ibid.*, Rules 26, FD4(13), pp. 25, 26, 49.

inspects the public water supply; ascertains and inspects the sources of water used in bakeries, restaurants, hotels, tourists camps, and similar places in the county; sends samples of water to the State laboratory for inspection, in order to detect pollution; issues certificates showing the quality of water in certain private wells; orders the disuse of water from any polluted water supply; and recommends methods of improving the quality of any public or private water supply.⁴⁹

The health officer investigates the presence, source, and cause of diseases;⁵⁰ establishes, enforces, modifies, and terminates quarantines;⁵¹ closes schools, churches, and swimming pools, and forbids public gatherings, in order to prevent the spread of epidemics;⁵² authorizes vaccination in certain cases as an alternative of quarantine or exclusion from public places;⁵³ causes public service vehicles, public buildings, and dwelling places, and articles contained therein, to be disinfected after certain diseases have existed there;⁵⁴ causes the removal of diseased persons and their baggage from public service vehicles, hotels, rooming houses, apartments, and similar places, when necessary to prevent the spread of certain diseases;⁵⁵ issues permits authorizing common carriers to bring into the State persons having certain diseases;⁵⁶ issues permits authorizing persons having a venereal disease to

⁴⁹ Acts 1909; Burns 35-201; Baldwin 8410. Acts 1919; Burns 35-1105; Baldwin 8518. State Board of Health, *op. cit.*, Rules SE1-SE10, SE18, pp. 77-83, 89-91.

⁵⁰ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1903; Burns 35-408; Baldwin 8538. State Board of Health, *op. cit.*, Rule 16, p. 15.

Diseases of school children. *Ibid.*, Rules 24, 40, pp. 25, 27.

⁵¹ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1903, 1915; Burns 35-403, 35-408, 35-409; Baldwin 8533, 8538, 8539. State Board of Health, *op. cit.*, Rules 10-22, 27, pp. 13-26.

Minimum period. State Board of Health, *op. cit.*, Rule 22, p. 20.

Attending school. Acts 1903; Burns 35-405; Baldwin 8535. State Board of Health, *op. cit.*, Rules 10, 24, pp. 13, 25.

Renting to another tenant. Acts 1917; Burns 35-605; Baldwin 8556.

⁵² Acts 1891, 1909; Burns 35-111; Baldwin 8405. State Board of Health, *op. cit.*, Rule SE17(9), p. 86.

⁵³ State Board of Health, *op. cit.*, Rule 12, p. 14. *Blue v. Beach*, 155 Ind. 121, 56 N. E. 89 (1900); *State ex rel. Horne v. Beil*, 157 Ind. 25, 60 N. E. 672 (1901).

⁵⁴ Acts 1903; Burns 35-404, 35-410; Baldwin 8534, 8540. Acts 1917; Burns 35-603 to 35-605; Baldwin 8553, 8554, 8556. State Board of Health, *op. cit.*, Rules 21, 25, 27, pp. 19, 25, 26.

⁵⁵ Acts 1903; Burns 35-407, 35-408; Baldwin 8537, 8538. State Board of Health, *op. cit.*, Rule 21, p. 19.

⁵⁶ State Board of Health, *op. cit.*, Rule 20, p. 19.

move from one health jurisdiction to another;⁵⁷ must take all reasonable and necessary precautions against spreading diseases to which he has been exposed;⁵⁸ approves claims which are to be submitted to the board of commissioners in connection with the destruction of personal property to prevent the spread of disease;⁵⁹ and dismisses schools at which there are not 225 cubic feet of air space for each pupil.⁶⁰

He orders the destruction of domestic animals which have been exposed to certain diseases contrary to quarantine regulations;⁶¹ sends, or assists in sending, heads of animals to the State laboratory for scientific examination to determine whether the animals were rabid;⁶² formerly referred indigent persons bitten by a dog, known or supposed to have hydrophobia, to the State Board of Health for the Pasteur treatment;⁶³ formerly ordered hydrophobia-infected animals quarantined or killed;⁶⁴ and formerly, in case there was danger of the outbreak or spread of hydrophobia, ordered the muzzling or quarantining of all animals, of kinds designated by him, within his jurisdiction, with the consent and aid of the sheriff.⁶⁵

He receives a book of instructions and various printed forms from the State Board of Health;⁶⁶ keeps complete records of his work;⁶⁷ and makes weekly,⁶⁸ monthly,⁶⁹ quarterly,⁷⁰ and other reports to the State Board of Health.⁷¹ A

⁵⁷ *Ibid.*, Rule 18, p. 16.

⁵⁸ *Ibid.*, Rule 13, p. 14.

⁵⁹ Acts 1903; Burns 35-407; Baldwin 8537.

⁶⁰ State Board of Health, *op. cit.*, Rule 28, p. 26.

⁶¹ *Ibid.*, Rule 26(2), p. 26.

⁶² Acts 1935; Burns, 1941 suppl., 35-711; Baldwin, 1935 suppl., 3863-1. State Board of Health, *op. cit.*, Rule LB4, p. 32.

⁶³ Acts 1911, ch. 92, sec. 3 (repealed by Acts 1935, ch. 271, sec. 1). State Board of Health, *op. cit.*, Rules 41-43, p. 28.

⁶⁴ Acts 1911, ch. 98, sec. 4 (repealed by Acts 1935, ch. 271, sec. 1).

⁶⁵ Acts 1911, ch. 98, sec. 5 (repealed by Acts 1935, ch. 271, sec. 1).

⁶⁶ Acts 1907, 1913; Burns 35-116; Baldwin 8499. State Board of Health, *op. cit.*, pp. 3, 4, 15.

⁶⁷ Acts 1891, 1909; Burns 35-111, 35-115; Baldwin 8405, 8348. State Board of Health, *op. cit.*, Rules 3, 4, 6, 7, pp. 9-12.

⁶⁸ State Board of Health, *op. cit.*, Rule 6, p. 11.

⁶⁹ Acts 1907, 1919, 1929, 1935; Burns, 1941 suppl., 35-703; Baldwin, 1935 suppl., 3834. State Board of Health, *op. cit.*, Rules 3, 4, pp. 9, 10.

⁷⁰ State Board of Health, *op. cit.*, Rule 1, 5, pp. 9, 11.

⁷¹ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1941 suppl., 35-112. Baldwin, 1935 suppl., 3401-1. State Board of Health, *op. cit.*, Rule 10, p. 13.

retiring health officer may keep possession of the books of his office for 10 days after surrendering his office to his successor, in order to make reports for the last month of his incumbency; and, after such 10 days, said books (including book of instructions) and all blank forms and supplies must be delivered to the new incumbent, who must immediately bring all records up to date.⁷²

All of the records of the county health officer are in his office.

364. BIRTH RECORD, 1882-. 20 vols.

Record of births reported to county health officer, showing date and place of birth; date of report; name, sex, and color of child; names, address, nationality, and occupation of parents; number of children born in family; and name and address of attending physician. Arr. chron. by date of report. Indexed alph. by name of child. Hdw. 125 pp. 18 x 12 x 1½.

365. RECORD OF DEATHS, March 1, 1882-. 10 vols.

Record of deaths reported to county health officer, showing date of report, death, and burial; name, age, sex, past occupation, and place of birth of deceased; names of widow or widower and parents of deceased; place of burial; and name of attending undertaker. Arr. chron. by date of report. Indexed alph. by name of deceased. Hdw. 500 pp. 17 x 12 x 2¼.

366. RECORD OF BIRTHS DEATHS AND DISEASES, 1882-Jan. 1, 1938. 9 vols.

Record of births, deaths, and contagious diseases in towns of Marshall County, showing dates of birth, death, burial, report of disease, and establishing and lifting of quarantine; places of birth; name, sex, and color of infant, deceased, or patient; duration and nature of illness of deceased or patient; names of attending physician, and also undertaker in case of death; and place of burial of deceased. Arr. chron. by date of birth, death, or report. No index. Hdw. 300 pp. 18 x 12 x 1.

367. MARRIAGE RECORD, 1882-Nov. 12, 1932. 11 vols.

Record of marriages reported by county clerk to health officer, showing dates of marriage and return; names, addresses, occupations, color, ages, and places of birth of bride and groom; and names and addresses of parents and person officiating. Arr. chron. by date of marriage return. Indexed alph. by name of groom. Hdw. 300 pp. 18 x 12 x 1.

⁷² State Board of Health, *op. cit.*, Rule 7(2), p. 12.

XXXVI. PUBLIC HEALTH NURSE

LEGAL STATUS

The office of public health nurse has existed in Marshall County since 1939 under the permissive provisions of an act of 1935. She is appointed for an indefinite term by the board of commissioners (subject to the approval of the Indiana State Board of Health). She may be removed from office at any time by the board of commissioners without charges being made against her.¹ The nurse must be "legally qualified"; must have been suitably trained in sanitary science;² must have knowledge of mental hygiene and nutrition;³ must be of vigorous health; must demonstrate that she has high ideals, that she acts in accordance with ethical standards, and that she can be depended on to exercise good judgment; must be industrious and efficient; and must have "ability to get on well with other people."⁴ Her compensation is fixed by the board of commissioners and included in an appropriation by the county council. There are no statutory limitations on the amount of her compensation.⁵

FUNCTIONS AND RECORDS

The public health nurse devotes her entire time to the duties of her office in protecting and supervising the general health and sanitation in the county; performs such duties as are prescribed by regulations of the State Board of Health;⁶ helps to secure early medical diagnosis and treatment for sick, diseased, and ailing persons; renders or arranges for necessary nursing care; teaches through demonstration the care to be given by relatives and attendants of sick, diseased, and crippled persons and invalids, and supervises

¹ Acts 1935; Burns, 1941 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6. Commissioners' Record U: 305, *see* entry 2. Letter of March 6, 1940, from James P. Wason, Deputy Attorney General of Indiana, to Dr. Christopher B. Coleman, director of the Indiana Historical Bureau, concerning the term of office and removal of public health nurses. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on January 20, 1941, by William E. Chambers.

² Acts 1935; Burns, 1941 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

³ Information obtained from Dr. Verne K. Harvey, director of the State Board of Health, on May 17, 1940, by W. Davis Hamilton.

⁴ Regulation adopted by State Board of Health on February 17, 1940.

⁵ Acts 1935; Burns, 1941 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

⁶ *Ibid.*

such care; assists families and individuals to plan and carry out medical, sanitary, and social procedures for the prevention of disease and the promotion of health; helps to secure adjustment of social conditions which affect health; influences the community to develop public health facilities through participating in appropriate channels of community education for the promotion of a sound and adequate community health program; shares in community action leading to betterment of health conditions; participates in programs for the prevention of physical and mental handicaps of children; and assists in the education of handicapped children. Her duties extend to the following specific subjects: Maternity, infant and preschool health, school health, adult health, communicable diseases in general, tuberculosis, syphilis, gonorrhea, noncommunicable diseases in general, orthopedic service, vital statistics, sanitation, nutrition, and mental hygiene.⁷

Concerning maternity, the nurse assists in securing medical and dental examination and supervision early in pregnancy and throughout the antepartum period; assists in planning and preparing for confinement and in securing a postpartum medical examination; gives assistance at home confinements and care to the mother and baby during the postpartum period; helps the family to carry out specific medical advice as to maternal hygiene and infant care; and participates in promoting adequate resources for maternity care through utilizing appropriate channels of community education.⁸

Concerning infant and preschool health, the nurse assists in securing complete birth registration; assists in securing medical supervision, dental examination, and correction of defects for every child; assists in the control of communicable diseases through teaching the recognition of early symptoms, the importance of isolation, and the value of immunization; and assists the family to carry out general and specific medical instruction concerning hygiene and the daily regime of the child, including instruction of parents in the desirability of early establishment of sound health habits.⁹

Concerning school health, the nurse participates in formulating and developing a health education program based on the needs of the pupils; assists physicians and dentists in

⁷ Information obtained from Dr. Verne K. Harvey director of the State Board of Health, on May 17, 1940, by W. Davis Hamilton.

⁸ *Ibid.*

⁹ *Ibid.*

the examination of pupils and the interpretation of findings to teachers, parents, and children; teaches the value of adequate health supervision and facilities for medical and nursing care, and assists in securing corrections of defects; inspects pupils; instructs teachers, parents, and pupils to observe and recognize deviations from normal health; assists in the control of communicable diseases through teaching the recognition of early symptoms, the importance of isolation, and the value of immunization; promotes the maintenance of a healthful school environment—physical, emotional, and social; arranges for the care of emergency and minor injuries and illnesses in accordance with standing medical orders; develops relationships to coordinate school nursing activities with all other health forces of school, home, and community and to promote community health resources; participates in curriculum making; and instructs classes in the principles of healthful living and care of the sick.¹⁰

Concerning adult health, the nurse encourages periodic health examinations; teaches the fundamentals of personal hygiene in order to assist in the prevention and retardation of those diseases specific to adult life; and assists in securing early diagnosis and treatment of those diseases.¹¹

Concerning communicable diseases in general, the nurse promotes the complete reporting of reportable diseases; teaches the need of medical care; assists the family to carry out isolation and general and specific medical instructions; interprets health department procedure to individuals and groups; assists in making epidemiological investigations; instructs parents, teachers, and other individuals and groups to recognize early symptoms, to isolate suspicious cases, to carry out proper precautions, to prevent the spread of disease, and to appreciate the importance of adequate convalescent care; and helps under medical direction to secure specific immunization.¹²

Concerning tuberculosis, the nurse assists in finding cases (persons infected) and contacts (persons exposed) and obtaining reports of all cases; assists in making epidemiological investigations; helps to arrange for sanatorium and postsanatorium care and rehabilitation of the patient when indicated; teaches the patient and family the importance of

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

personal hygiene and the precautions to be taken to prevent the spread of the disease; helps the patient and his family to maintain a mental and social adjustment toward a long-term communicable disease; helps to educate the public concerning the unmet needs of the community for the prevention, control, and care of tuberculosis; and assists in integrating services of clinics, sanatoriums, private physicians, health department, and other related health and social agencies.¹³

Concerning syphilis and gonorrhea, the nurse assists in finding cases (persons infected) and contacts (persons exposed); assists in making epidemiological investigations; promotes the reporting of cases; promotes continued treatment through assisting the patient to follow prescribed routines; teaches the patient and family the importance of personal hygiene and the precautions to be taken to prevent the spread of these diseases; and teaches scientific facts to individuals and groups to help eliminate the stigma inflicted by modern society upon the victims of these diseases.¹⁴

Concerning noncommunicable diseases, the nurse assists in securing special care for patients having special types of disability, such as orthopedic and cardiac conditions, arthritis, diabetes, and cancer; observes and assists in adjustment of health situations in the homes of patients; teaches general hygiene and the prevention of disease; and puts the family in touch with community resources.¹⁵

Concerning orthopedic service, the nurse assists in finding orthopedic cases; observes and helps others to recognize environmental conditions or habits which might produce postural or other orthopedic defects, and helps to eliminate such conditions or habits; observes and helps to eliminate conditions for bed patients which might cause contractures, foot drop, or spinal curvature; observes and teaches others to recognize signs of orthopedic defects; gives or obtains skilled physiotherapy treatment under medical direction to prevent deformities and to secure maximum return of power to muscles and joints; and teaches the patient and his family the importance of self reliance on the part of the crippled person, promoted by encouraging independence in daily routines and interest in useful occupations.¹⁶

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

Concerning vital statistics, the nurse teaches, as a part of the antepartum care, the value of birth registration and the importance of accurate statements on the birth certificate; makes sure that all births are registered before closing maternity cases; reports to the county health officer all births and stillbirths known to the nurse; and assists in morbidity and mortality studies which are useful in determining needs and formulating programs.¹⁷

Concerning sanitation, the nurse ascertains the source of water supply and the means of excreta disposal in the homes visited by her, and notifies the county health officer when these do not appear to be safe; teaches the importance of correcting unsatisfactory conditions, and the methods of immediate protection pending their correction; observes the ventilation and screening in the homes visited; teaches the importance of screens; inquires concerning the source of the milk supply; and teaches standards and the importance of sanitary methods of milk production and handling.¹⁸

Concerning nutrition and mental hygiene, the nurse uses the resources of the community which contribute to good nutrition; observes signs of poor nutrition and their contributing conditions; instructs families concerning the relationship of nutrition to health and normal growth and development; assists families to adapt nutrition information to their own economic and social situations; keeps in mind the variations in human behavior and their significance; uses the mental health resources of the community; and tries to make more productive all contacts with families and individuals.¹⁹

In accordance with the regulations of the State Board of Health, the public health nurse makes reports to the county health officer, the State Board of Health, physicians, and cooperating agencies, and keeps records of her work. Special care must be taken to make these reports and records as accurate as possible.²⁰

All of the records of the public health nurse are in her office, 222½ N. Center St., Plymouth.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

368. FAMILY RECORD, Jan. 16, 1939-. 1 f. d.

Record of services to families under care of public health nurse, showing date of visits to home of family; names, ages, sex, color, and address of parents and children; name of attending physician; social and sanitary conditions; nature of services performed; and complete health and death record of family. Arr. alph. by name of parent. No index. Hdw. 6 x 8 x 20.

369. PRE-SCHOOL RECORDS, Jan. 16, 1939-. 1 f. d.

Record of preschool supervision of children, showing dates of visits, examinations, and immunization; name, age, color, physical condition, and disease record of child; and names of parents and school. Arr. alph. by name of child. No index. Hdw. 6 x 8 x 20.

370. DAILY REPORTS, Jan. 16, 1939-. 1 f. d.

Contains:

- i. Copies of nurse's quarterly reports to Indiana State Board of Health, covering cases of tuberculosis, communicable and venereal disease control, admissions to hospital, maternity, morbidity and crippled children service, and infant, preschool, and adult hygiene, showing date of report and period covered; name and population of health unit; office, field, and clinical data of patients; total number of admissions to service; details and statistics of each kind of service rendered; advice, instruction, examinations, and treatments given; operations performed for clients by physicians; and results attained. Arr. chron. by date of report.
- ii. Daily record of activities, showing date worked; name of nurse; district number; miles traveled; classification, and total number of cases visited; nature and number of lectures given; names and addresses of patients; and summary of days' activities. Arr. chron. by date worked.

No index. Hdw. 6 x 8 x 20.

XXXVII. COUNTY DEPARTMENT OF PUBLIC WELFARE

EVOLUTION AND STRUCTURAL ORGANIZATION

The county department of public welfare has existed in Marshall County ever since 1936 under the requirements of an

act of 1936. The department's affairs are administered by the county board of public welfare and a county director of public welfare.¹ The department is a legal entity and its official name is "The County Department of Public Welfare of Marshall County." It may sue and be sued in that name.²

Before the present system of welfare was organized, the county administered aid to the poor and needy (including children, insane persons, and blind persons) through discretionary powers granted to the board of county commissioners. County asylums were established at an early date to care for those who were without homes and means to care for themselves.³

An act of 1933 provided a system of old-age pensions in all counties of the State.⁴ The board of commissioners of each county had exclusive control and administration of the pensions.⁵ Pensions up to \$15 per month were authorized for persons who had attained the age of 70 years. Many provisions of this law were similar to provisions contained in the present welfare law.⁶ In counties with 500 or more applicants

¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1117 to 52-1119, 52-1126; Baldwin, 1937 suppl., 14078-18 to 14078-20, 14078-27.

² Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1122(a); Baldwin, 1937 suppl., 14078-23.

³ Const. 1816, art. 9 sec. 4. Const. 1851, art. 9, sec. 3. Rev. L. 1831, ch. 20, sec. 20; ch. 69. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 52, sec. 3; ch. 73, sec. 2; ch. 79. Acts 1839-40 (general), ch. 51. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71; ch. 19. Acts 1849-50 (general), ch. 13. 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81; ch. 110, secs. 5, 17. Acts 1857, ch. 8. Acts 1859, ch. 5, sec. 1. Acts 1865, ch. 40. Acts 1865 (Spec. Sess.), ch. 7, sec. 3. Acts 1873, ch. 41, sec. 1. Acts 1875, ch. 119, secs. 1, 2. Acts 1881, ch. 7. Acts 1881 (Spec. Sess.), ch. 81. Acts 1885 (Spec. Sess.), chs. 9, 34. Acts 1887, ch. 56, sec. 1. Acts 1889, ch. 78, sec. 3; ch. 107, secs. 1, 9. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1899, chs. 76, 87; ch. 90, secs. 3, 6; ch. 154, sec. 33. Acts 1901, chs. 147, 155, 195, 206. Acts 1903, chs. 106, 144, 247. Acts 1907, ch. 65, secs. 1, 2. Wayne Twp. v. Brown, 205 Ind. 437, 186 N. E. 841 (1933).

Children. Rev. L. 1824, ch. 72, sec. 6. Acts 1827-28, ch. 46, sec. 1. Rev. Stat. 1838, ch. 79, secs. 6, 11. 1 Rev. Stat. 1852, ch. 81, secs. 28, 32; ch. 68, sec. 3. Acts 1875, ch. 119, secs. 1, 2. Acts 1881, ch. 7. Acts 1881 (Spec. Sess.), ch. 81, sec. 10. Acts 1885, ch. 36, sec. 1. Acts 1885 (Spec. Sess.), ch. 34. Acts 1887, ch. 26. Acts 1889, ch. 107, sec. 1. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1901, ch. 173, sec. 5.

Insane. Acts 1817-18 (general), ch. 63, sec. 5. Acts 1839-40 (general), ch. 52, sec. 1. Rev. Stat. 1843, ch. 46, sec. 181. 1 Rev. Stat. 1852, ch. 81, sec. 8.

Blind. Acts 1839-40 (general), ch. 51. Acts 1849-50 (general), ch. 13. Acts 1857, ch. 8.

⁴ Acts 1933, ch. 36 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

⁵ *Ibid.*, sec. 2.

⁶ *Ibid.*, secs. 3-7.

for pensions, the board of commissioners could employ one investigator for each 500 applicants at a salary set by the board of commissioners, not to exceed \$1,800 annually.⁷

The methods of welfare assistance mentioned in the last paragraph and in the separate essay entitled "Board of Children's Guardians (1901-36)" were merged into the Welfare Act of 1936 (the present law),⁸ which is discussed in detail in the section entitled "Welfare assistance" in the essay entitled "Governmental Organization and Records System."

Since 1897 township poor relief has been administered by township trustees from funds raised by township tax levies. Such poor relief is separate and distinct from the public welfare system discussed herein, but the two systems are often confused by the public.⁹

The county board of public welfare consists of five members appointed for 4-year terms by the judge of the circuit court. Each member serves until his successor is appointed and qualified. At least two members must be women and not more than three members may be adherents of the same political party. The members must have resided in the county for 2 years before appointment, must have a definite and recognized interest in public welfare, and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of this office.¹⁰

The judge of the circuit court may, at any time after due notice in writing, remove any member of the county board of public welfare for misconduct, incapacity, or neglect of duty. A vacancy in the membership of this board is filled through appointment by the judge of the circuit court; and the appointee holds office for the unexpired term and until his successor is appointed and qualified.¹¹

Regular meetings of the county board of public welfare are held once a month. The August meeting is known as the annual meeting. Other meetings may be held pursuant to call.

⁷ *Ibid.*, sec. 26.

⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 14078-122.

⁹ Acts 1897, ch. 151. Acts 1901, ch. 147, secs. 1-39. Acts 1935; Burns, 1941 suppl., 52-145 to 52-182a; Baldwin, 1935 suppl., 13320-2 to 13359-12.

¹⁰ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

¹¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

Three members of the board constitute a quorum for transacting business.¹²

The members of the county board of public welfare serve without compensation, but each member is entitled to receive 5 cents per mile for each mile actually and necessarily traveled in attending board meetings and State conventions of county board members.¹³

Executive and administrative work of the county department of public welfare is carried on by the county director of public welfare, who serves as secretary of the board. He is appointed by the county board of public welfare to serve for an indefinite term. The appointment is made solely on the basis of merit from eligible lists established by the Indiana State Department of Public Welfare. He must have resided in the county for 2 years before appointment, unless no suitable person with such residence is available. The director must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office. He must post bond in an amount (not exceeding \$5,000) fixed by the State Department of Public Welfare, to be approved by the judge of the circuit court and filed in the office of the clerk of the circuit court.¹⁴

The county director of public welfare may be removed from office at any time by the county board of public welfare. If the State Department, after notice and hearing, determines that the county director's duties, functions, and activities are not performed in compliance with the welfare laws and regulations, the State Department may order the county board to remove him from office. Vacancies in the office of county director are filled in the manner in which original appointments are made, except as otherwise stated hereinafter. If a successor is not appointed within 30 days after removal is ordered by the State Department, or if any vacancy is not filled by the county board within 30 days after the vacancy occurs, the State Department may appoint a successor to serve at the pleasure of the State Department.¹⁵

The county director of public welfare receives a salary in an amount fixed by the county board of public welfare,

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1836 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

¹⁵ Acts 1926 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

within the salary ranges established by the State Department. In Marshall County this salary is now \$1,800 per year. He also receives 5 cents per mile for each mile necessarily traveled in the discharge of his duties.¹⁶

The county director, with the approval of the county board, appoints the assistants in the department, from eligible lists compiled by the State Department of Public Welfare, and determines the salaries of these assistants. Each assistant must have been a resident of the county for 2 years before his appointment, unless a suitable person with such residence is not available.¹⁷

FUNCTIONS AND RECORDS

Subject to the rules and regulations prescribed by the State Department of Public Welfare, the county department is charged by statute with the administration of old-age assistance; aid to dependent children in their own homes; the care and treatment of dependent, neglected, and handicapped children and those in danger of becoming delinquent; and services and assistance to the blind and to persons otherwise handicapped. The county director performs the duties prescribed by law for the probation officer of any court having jurisdiction of persons on probation (concerning any welfare matters before the court), when so directed by such court; but he cannot hold the office of probation officer. The county department must report to the State Department "at such times and in such manner as the State Department may, from time to time, direct." Necessary quarters for the county department must be provided by the board of commissioners.¹⁸

Expenditures for welfare assistance and administrative expenses (including rent of office quarters) of the county department are paid from the county welfare fund raised by a separate tax levy,¹⁹ to which are added such repayments as may be made under legal liability by recipients, their parents, children, or other persons liable for their support.²⁰

¹⁶ *Ibid.* Information obtained from Thurman A. Gottschalk, administrator of the State Department of Public Welfare, on February 27, 1941, by William E. Chambers.

¹⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1123; Baldwin, 1937 suppl., 14078-24.

¹⁸ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1113, 52-1120; Baldwin, 1937 suppl., 14078-14, 14078-21. Op. Atty. Gen. 1936, p. 155.

¹⁹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1120, 52-1301; Baldwin, 1937 suppl., 14078-21, 14078-98.

²⁰ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

As partial reimbursement for the amount paid for assistance to aged persons and dependent children, the county receives 50 percent from the Federal Government and 60 percent of the remainder from the State.²¹ Any funds received by the State from the Federal Government for child welfare and the care and treatment of crippled children are divided among the counties as the State Board may determine.²² For personal services in the county administration of the welfare act, the county receives 50 percent from the State, plus a proportional part of such other funds as may be received by the State from the Federal Government to apply on administrative expenses. These reimbursements are paid into the county welfare fund.²³

All claims for administrative expenses are subject to allowances by the board of commissioners. Claims for assistance are determined by the department and approved by the director, and need not be allowed by the board of commissioners.²⁴ The county board of public welfare may accept gifts of personal property or income from real estate, for the homes or support of dependent children.²⁵

The auditor keeps the records relating to the county welfare fund and its financial transactions.²⁶ The county department keeps such records and accounts as are required by the State Department of Public Welfare.²⁷ All records are confidential, except the following: (a) Applications for assistance, (b) awards, and (c) modification and revocation of awards.²⁸

All records of the county department of public welfare are in this office, except as otherwise indicated in the entries.

²¹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1249, 52-1220; Baldwin, 1937 suppl., 14078-80, 14078-51.

²² Acts 1935 (Spec. Sess.); Burns, 1941 suppl., 52-1254, 52-1258; Baldwin, 1937 suppl., 14078-85, 14078-89.

²³ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1124a; Baldwin, 1937 suppl., 14078-24a. Information obtained from Thurman A. Gottschalk, administrator of the State Department of Public Welfare, on December 20, 1940, by William E. Chambers.

²⁴ Acts 1936 (Spec. Sess.); Burns 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

²⁵ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1122(b); Baldwin, 1937 suppl., 14078-23.

²⁶ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1401; Baldwin, 1937 suppl., 14078-113.

²⁷ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1200, 52-1402; Baldwin, 1937 suppl., 14078-91, 14078-114.

²⁸ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1260; Baldwin, 1937 suppl., 14078-93.

PROCEEDINGS

371. PUBLIC WELFARE, 1936-. 1 vol.

Minutes of meetings of county board of public welfare, showing date of meeting, names of members present, nature of business transacted, and action taken. Arr. chron. by date of meeting. No index. Typed. 600 pp. 18 x 13 x 3.

372. RECOMMENDATIONS OF COUNTY DIRECTOR, 1936-. 1 vol.

Record of recommendations of county director and actions of county board of public welfare as to rejections, awards, modifications, and revocations of awards of assistance to the aged, dependent children, and blind, showing dates of recommendation and meetings, name and address of applicant and recipient, application number, nature of recommendation and action of board, amount of award, certificate number, and date of notice. Arr. chron. by date of meeting. No index. Hdw. 300 pp. 16 x 12 x 2.

373. [NOTICE OF ASSISTANCE GRANTED], 1936-. 1 f. d.

Duplicate copies of notices to township trustees of assistance granted, showing date of notice, nature and amount of assistance granted, and name and address of recipient. Arr. chron. by date of notice. No index. Typed. 12 x 12 x 24.

OLD-AGE ASSISTANCE

374. REGISTER OF APPLICATIONS, 1936-. 1 vol.

Contains:

- i. Applications for old-age assistance, showing date of application; application number; name, age, sex, and address of applicant; and name of visitor assigned.
- ii. Applications for aid to blind, showing date of application; application number; name, age, sex, and address of applicant; name of visitor assigned; and action taken.
- iii. Applications for aid to dependent children, showing date of application; application number; name, age, sex, and address of child; names of parent, guardian, or custodian and visitor assigned; and action taken.
- iv. Applications for service to crippled children, showing date of application; application number; name, age, and sex of child; name and address of parent, guardian, or custodian; and action taken.

- v. Foster home applications, showing date of application, application number, names of applicant and visitor assigned, and number and sex of children applied for.

Arr. numer. by application no. No index. Hdw. 300 pp. 16 x 8 x 2.

375. INDEX TO DEPENDENT CHILDREN, BLIND AND OLD-AGE, 1936-. 1 f. d.

Card index to old-age assistance, entry 377; old-age assistance inactive, entry 378; application for aid to the blind, entry 380; and assistance to dependent children active, entry 381, showing name and address of recipient; dates of application, award, rejection, modification, and revocation; and application number. Arr. alph. by name of recipient. Typed. 12 x 14 x 24.

376. OLD AGE PENSION RECORD, 1933-Mar. 16, 1936. 2 vols. (1, 2).

Duplicate copies of applications for old-age pensions, showing date of application; name, address, age, sex, color, and family history of applicant; statement of property owned; date and nature of action taken; amount of action taken; amount of award; and application number. Arr. chron. by date of application. Indexed alph. by name of applicant. Hdw. and typed. 300 pp. 18 x 13 x 3. Aud. off.

377. OLD-AGE ASSISTANCE, 1936-. 1 f. d.

Original documents of active old-age assistance cases, consisting of applications, statements of relatives, face sheets, recommendations, visitors' reports, employment record, statements of property owned, assignments of life insurance and other assets, and certificates of award, showing date and nature of document; application number; name, age, address, and family history of applicant; and amount of award. Arr. numer. by application no. For index, see entry 375. Typed. 12 x 14 x 24.

For copies of certificates of award of old-age assistance, see entry 102; for abstracts of certificates of award, see entry 103.

378. OLD-AGE ASSISTANCE INACTIVE, 1936-. 2 f. d.

Original documents in cases covering:

- i. Old-age assistance, showing information as in entry 377.
- ii. Dependent children, showing information as in entry 381.

Arr. alph. by name of applicant. For index, see entry 375. Typed. 12 x 14 x 24.

379. RECORD OF ASSISTANCE GIVEN, 1936-. 1 vol.

Record of awards granted and payments of allowances to the aged, showing application number; name and address of recipient; and dates, numbers, and amounts of warrants. Arr. numer. by application no. No index. 300 pp. 16 x 9 x 2.

BLIND

(See also entry 374ii, 375).

380. APPLICATION FOR ASSISTANCE TO THE BLIND, 1936-. 1 f. d.

Original documents of active and inactive cases of aid to the blind, consisting of applications, visitors' and physicians' reports, certificates of award, and rejections or withdrawals, showing date and nature of document; application number; name, age, sex, color, address, and family history of applicant; statement of property owned; names of visitor, physician, and guardian; and dates and amounts of monthly payments. Arr. numer. by application no. For index, see entry 375. Typed. 12 x 14 x 24.

DEPENDENT CHILDREN

(See also entries 374iii, iv, v, 375, 378ii).

381. ASSISTANCE TO DEPENDENT CHILDREN, [Active], 1936-.

1 f. d.

Original documents of active cases of aid to dependent children, consisting of; applications, visitors' reports, recommendations, and certificates of awards, showing date and nature of document; application number; name, age, sex, color, and family history of child; name and address of parent, guardian, or custodian; and amount of award. Arr. numer. by application no. For index, see entry 375. Typed. 12 x 14 x 24.

382. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN, 1936-.

1 vol.

Record of payments of allowances for support of dependent children, showing application number; name, sex, and date of birth of child; name and address of parent, guardian or custodian; date and amount of award; date, number, and amount of warrant; and total payments for year. Arr. numer. by application no. No index. Typed. 200 pp. 15 x 9 x 1½.

APPROPRIATIONS AND DISBURSEMENTS

383. LEDGER, 1933-. 2 vols.

Record of appropriations and disbursements of welfare funds, showing dates of claim, filing, approval, and payment; date, number, and amount of warrant; amount of appropriation; and name of fund. Arr. chron. by date of warrant. No index. Hdw. 200 pp. 16 x 12 x 2.

384. REGISTER OF WARRANTS ISSUED, 1936-. 1 vol.

Register of warrants issued for payments of claims for administrative purposes, showing date, nature, number, and amount of claim and warrant and names of payee and fund. Arr. numer. by warrant no. No index. Hdw. 200 pp. 16 x 12 x 2.

385. MINUTES OF MEETINGS OF BOARD OF GUARDIANS, 1915-June 30, 1936. 2 vols.

Minutes of meetings of board of children's guardians, showing date of meeting, names of members present, nature of business transacted, and action taken. Arr. chron. by date of meeting. No index. Hdw. 250 pp. 14 x 9 x 2. Pub. welf. off.. Center and Washington Sts.

XXXVIII. BOARD OF CHILDREN'S GUARDIANS (1901-36)

LEGAL STATUS

From 1901 until 1936 Marshall County had a board of children's guardians, composed of six members appointed for 3-years terms by the judge of the circuit court. Two members were appointed each year. Three members were women and three or more were parents.¹

FUNCTIONS AND RECORDS

This board had the care and supervision of neglected and dependent children residing in the county. The board could indenture children as apprentices, authorize adoption without the consent of parents, or make other suitable disposition of such children. The action of the board was subject to the approval of the circuit court.² The board of commissioners had the authority to provide a house of suitable size and convenience for the accomodation of the children placed in the

¹ Acts 1901, 1923, 1927; Burns 22 2801; Baldwin 5684.

² Acts 1901, 1923; Burns 22 2802; Baldwin 5635.

custody of the board of children's guardians. The board of commissioners provided funds necessary for employment of agents and assistants of the board of children's guardians, and for defraying all operating expenses of the home, and made an allowance of 30 cents per day for food and clothing of each child under the care of the board of children's guardians.³

This board was abolished in 1936, and its duties were transferred to the county department of public welfare.⁴

XXXIX. SURVEYOR

LEGAL STATUS

The office of surveyor has existed in Marshall County since 1836 under the requirements of acts of 1831, 1833, 1838, and 1843 and the Constitution of 1851. The surveyor is elected by the voters of the county for a 2-year term, without restriction on reelection.¹ His term begins on the first day of January following his election.² He is commissioned by the Governor of Indiana³ and holds office until his successor is elected and qualified.⁴ The surveyor must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the county after his election, and must not hold any other lucrative office.⁶

³ Acts 1901, 1919, 1923; Burns 22-2805; Baldwin 5668.

⁴ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-122, 14078-122. See the essay entitled "County Department of Public Welfare."

¹ Const. 1851, art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3301; Baldwin 5504. See footnotes 15 and 16 herein.

² Acts 1929; Burns 49-207; Baldwin 5566.

³ Const. 1851, art. 15, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁴ Const. 1851, art. 15, sec. 3. Acts 1822-23, ch. 76, sec. 2. Pursel v. State ex rel. Roney, 111 Ind. 519, 12 N. E. 1003 (1887); Boyles v. State ex rel. Riggs, 112 Ind. 147, 13 N. E. 415 (1887).

⁵ Const. 1851, art. 6, sec. 4.

The surveyor is not required to be a registered professional engineer or land surveyor. Op. Atty. Gen. 1939, p. 269.

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Rev. Stat. 1838, ch. 103, sec. 1. State ex rel. Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914). Op. Atty. Gen. 1934, p. 500; 1935, p. 103.

He must post bond in an amount of not less than \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court,⁷ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁸

The surveyor is entitled to receive a regular salary of \$1,075 per year for his services as county surveyor. The law provides that his salary shall be one and one-half times that amount if he is "a qualified licensed engineer." While serving as county highway supervisor he is entitled to receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year). He cannot receive both salaries. When he furnishes his own or a hired conveyance, he receives 6 cents for each mile necessarily traveled by him while performing his duties concerning drainage and 5 cents for each mile necessarily traveled in the discharge of his duties as county highway supervisor.⁹ He is not entitled to retain, as compensation for himself, any fees collected by him.¹⁰

For sufficient legal grounds the surveyor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹¹ If the surveyor is convicted of a felony the judgment of conviction must declare his office vacant.¹²

⁷ Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Rev. Stat. 1838, ch. 103, sec. 1. Rev. Stat. 1843, ch. 10, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-105, 49-120; Baldwin 13063, 13068. Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

⁸ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Rev. Stat. 1838, ch. 103, sec. 1. Rev. Stat. 1843, ch. 10, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1925, ch. 120, sec. 1. Acts 1933; Burns 27-103, 36-1101, 36-1110, 49-1004, 49-1010; Baldwin 5739, 8699, 8078, 7534, 7540.

He receives no additional compensation for doing engineering work for the county highway supervisor. Op. Atty. Gen. 1939, p. 269.

¹⁰ Acts 1933; Burns 49-1005; Baldwin 7535.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. Stat. 1843, ch. 10, sec. 3. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

Any vacancy in the office of surveyor is filled through appointment by the board of commissioners. The appointee must take oath and post bond as was required of his predecessor. The appointee holds office for the unexpired term and until his successor is elected and qualified.¹³

The board of commissioners may appoint, on the recommendation of the surveyor, such number of deputy surveyors as may be necessary; determine whether they be full-time or part-time employees; and fix the salary of each deputy in an amount not exceeding \$200 per month. Such salaries are paid from the county treasury after an appropriation therefor is made by the county council. The surveyor may require any deputy to give bond. Each deputy must take an oath of office, may perform all of the surveyor's official duties, is subject to the same regulations and penalties, and may be removed from office by the board of commissioners. Each township trustee is an ex officio deputy surveyor (without additional compensation) in his townships.¹⁴

From the organization of Marshall County in 1836¹⁵ until 1843 the surveyor was appointed for a 3-year term by the judge of the circuit court. From 1843 until 1851 the board of commissioners made these appointments.¹⁶

FUNCTIONS AND RECORDS

The surveyor has charge, under the direction of the board of commissioners, of all surveying and civil engineering of the county; has charge of the preparation of plans and specifications for the construction of all roads, bridges, ditches,

¹³ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. State ex rel. Culbert v. Linkhauer, 142 Ind. 94, 41 N. E. 325 (1895). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁴ Acts 1817-18 (general), ch. 30, sec. 3. Rev. L. 1824, ch. 104, sec. 2. Acts 1827-28, ch. 89. Rev. L. 1831, ch. 102, secs. 2, 4. Rev. Stat. 1838, ch. 103, secs. 2, 4. Rev. Stat. 1843, ch. 10, secs. 20, 22. Acts 1833; Burns 27-102; Baldwin 5738. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 12108. 1 Rev. Stat. 1852; Burns 49-502, 49-3305, 49-3307; Baldwin 13109, 5511, 5513. Acts 1839; Burns 49-3306; Baldwin 5512. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1. Op. Atty. Gen. 1939, p. 269.

¹⁵ Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-36 (general), ch. 17, sec. 1.

¹⁶ Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs. 4, 5. Rev. Stat. 1838, ch. 103 (first act), sec. 1; ch. 103 (second act), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

drains and levees; supervises such construction; has charge of the maintenance of all ditches and drains;¹⁷ acts with view-ers in locating new roads and ditches;¹⁸ must clean driftage and obstructions from streams when landowners refuse to do so;¹⁹ may advertise and let contracts for drainage ditches;²⁰ must approve all contracted construction work before claims thereon are allowed;²¹ and formerly made inspections and surveys on certain lands owned by the United States Government, and made reports thereon to the Governor of the State.²² If the surveyor is not a licensed engineer or is disqualified from performing his duties by reason of ownership of lands or kinship to any person whose lands are affected, the court appoints a disinterested licensed engineer to act in the matter.²³ From 1885 until 1933 the surveyor served ex officio as a drainage commissioner with a drainage commissioner appointed by the board of commissioners.²⁴

Since 1933 it has been the duty of the county surveyor to supervise the maintenance of county highways, bridges, and culverts, unless the board of commissioners appoints another person to serve as county highway supervisor.²⁵ Marshall County now has a county highway supervisor other than the surveyor.²⁶ The surveyor is required to attend all sessions of the annual road school conducted by Purdue University. His expenses for such attendance are paid from the general fund of the county.²⁷

¹⁷ Acts 1891, ch. 115, sec. 4; ch. 186, secs. 3, 22, 23. Acts 1901, ch. 100, sec. 3. Acts 1933; Burns 27-101, 27-103, 27-104, 27-107 to 27-109, 27-111 to 27-116, 27-202; Baldwin 5737, 5739, 5740, 5743 to 5745, 5747 to 5752, 5776. Acts 1919; Burns 36-306, 36-307, 36-327; Baldwin 5861, 5865, 5877. 1 Rev. Stat. 1952. Acts 1911; Burns 49-3309; Baldwin 5508.

Work done by employees of Civilian Conservation Corps or Work Projects Administration under supervision of the county surveyor. Acts 1939; Burns, 1941 suppl., 27-283; Baldwin, 1939 suppl., 5794-9.

¹⁸ Acts 1892; Burns 27-108; Baldwin 5747. Acts 1905; Burns 36-221; Baldwin 5777.

¹⁹ Acts 1913; Burns 27-207; Baldwin 5761.

²⁰ Acts 1933; Burns 27-118; Baldwin 5754.

²¹ Acts 1899; Burns 26-538; Baldwin 5404.

²² Rev. L. 1831, ch. 83, sec. 1.

²³ Acts 1819-20, ch. 24. Rev. L. 1814, ch. 104, sec. 3. Rev. L. 1821, ch. 103, sec. 1. Rev. L. 1838, ch. 103, secs. 3, 20. Acts 1907, ch. 252, sec. 3, 20. Acts 1933; Burns 27-102; Baldwin 5738. Acts 1911; Burns 49-3300; Baldwin 5508.

²⁴ Acts 1885 (Spec. Sess.), ch. 10, sec. 1. Acts 1906, ch. 124, sec. 1, 14. Acts 1907, ch. 252, sec. 1, 21. Acts 1933, ch. 264, sec. 81.

²⁵ Acts 1933; Burns 36-1101, 36-1110; Baldwin 5809, 5808.

²⁶ See the essay entitled "County Highway Supervisor."

²⁷ Acts 1925; Burns 49-3323; Baldwin 5810.

On application of the surveyor it is the duty of the board of commissioners to provide for the location and establishment of a true and permanent meridian line at or near the county seat and upon public lands belonging to the county. After the completion and location of such established meridian line, the surveyor must file with the recorder a complete description of the marked meridian line and thereafter check his instruments against the line as often as necessary.²⁸

The surveyor administers certain oaths,²⁹ takes acknowledgments of mortgages and deeds for the conveyance of real estate,³⁰ and makes surveys to establish lines and corners of any lands in the county when requested to do so.³¹ Surveys made by the surveyor are prima facie evidence in favor of the corners established and the lines run, but an appeal to the circuit court may result in a resurvey by some other competent person.³² For his services other than for the county he charges the fees provided by statutory schedule and pays the same over to the county treasurer.³³

The deputies return to the surveyor all field notes taken by them.³⁴ The surveyor is required to preserve a copy of the original field notes of the surveys of the townships in his county,³⁵ and keep a record of all surveys made by him.³⁶

All records of the surveyor are in his office except as otherwise indicated in the entries.

²⁸ Acts 1895; Burns 49-3327, 49-3328; Baldwin 10849, 10850.

²⁹ Acts 1827-28, ch. 89. Rev. Stat. 1838, ch. 103, sec. 4. 1 Rev. Stat. 1852; Burns 49-3316; Baldwin 5518.

³⁰ 1 Rev. Stat. 1852, Acts 1857; Burns 49-3317; Baldwin 5519.

³¹ Rev. L. 1831, ch. 102, sec. 6. Acts 1828-29, ch. 94, sec. 2. Rev. Stat. 1838, ch. 103, sec. 1. Rev. Stat. 1843, ch. 10, sec. 15. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311, 49-3312; Baldwin 5509, 5510. Acts 1885; Burns 55-2102; Baldwin 14321.

³² 1 Rev. Stat. 1852; Burns 49-3313; Baldwin 5515. Acts 1901; Burns 49-3314; Baldwin 5516.

³³ Rev. Stat. 1838, ch. 40, sec. 1. Rev. Stat. 1843, ch. 10, sec. 23. 1 Rev. Stat. 1852, ch. 37, sec. 1. Acts 1853, ch. 44, sec. 1. Acts 1903, ch. 38, sec. 2. Acts 1920; Burns 36-1809; Baldwin 8729. Acts 1933; Burns 49-1005; Baldwin 7533. Acts 1875 (Spec. Sess.); Burns 49-3318; Baldwin 5521. Acts 1895; Burns 49-3329; Baldwin 10851. Acts 1893; Burns 66-121; Baldwin 16187.

³⁴ 1 Rev. Stat. 1852; Burns 49-3307; Baldwin 5513.

³⁵ Rev. L. 1831, ch. 102, sec. 5. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

³⁶ Rev. Stat. 1838, ch. 103 (second act), secs. 2, 3. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311; Baldwin 5509.

SURVEYS

386. SURVEYOR'S RECORD, 1836-. 10 vols. (unlabeled irregularly).

Record of field notes made from original United States and subsequent surveys, including a plat drawing of each section and survey, showing dates of survey and recording, names of surveyor and rodman, section and range numbers, corners, and drainage. Arr. chron. by date of survey. No index. Hdw. 600 pp. 18 x 13 x 3.

387. FIELD BOOKS, 1894-. 182 vols.

Handbooks used by surveyors for recording notes in surveys of roads, bridges, ditches, and other surveys, showing date and location of survey; names of surveyors, road, bridge, or ditch; and levels, tracings, bench marks, and cornerstones. No obvious arr. No index. Hdw. 100 pp. 7 x 5 x $\frac{3}{4}$.

PUBLIC IMPROVEMENTS

388. DITCH RECORDS, 1881-. 11 vols. (1-11).

Record of actions and proceedings on petitions filed for locating and constructing ditches, showing date and nature of action, names of principals and ditch, location and description of ditch and lands benefited, and amount of assessments. Arr. chron. by date of action. Indexed alph. by name of ditch. Hdw. 1881-1928; typed 1929-. 300 pp. 19 x 12 x 3.

389. SURVEYOR'S DRAINAGE RECORD, 1851-. 6 vols. (2 vols. unlabeled; 1-4).

Record of assessments for construction and repair of ditches, showing date and amount of assessment, names of ditch and landowners, and location and description of land benefited. Arr. chron. by date of assessment. Indexed alph. by name of ditch. Hdw. 300 pp. 18 x 12 x 3.

390. DITCHES, 1933-. 1 f. d.

Card record of ditches, showing name and kind of ditch and name of township. Arr. by name of t. and alph. thereunder by name of ditch. No index. Hdw. 11 x 16 x 26.

391. [DITCHES], 1933-. 1 f. b.

List of names of ditches constructed, repaired, and under construction, showing name and location of ditch, date of construction or repair, and nature and amount of work completed. Arr. by name of t. and alph. thereunder by name of ditch. No index. Hdw. 13 x 8 x 5.

392. DITCH PROFILES, MARSHALL COUNTY, undated. 242 blueprints.

Blueprints of ditches, showing names of engineer, township, and ditch; and locations of ditch, roads crossing ditch, and lands benefited. Arr. by name of t. No index. Blueprint. Scale: $1\frac{1}{4}$ " to 100'. 24 x 36.

393. [ROADS], undated. 371 blueprints.

Blueprints and specifications of county roads constructed and repaired, showing dates of blueprint and specifications, names of engineer and contractor, and complete specifications of road. Drawn by Howard C Grube, Plymouth, Ind. Blueprints. Scale varies: 360 blueprints, bookroom 1; 9 blueprints, aud. off.; 2 blueprints, surv. off.

394. [BRIDGE SPECIFICATIONS], 1932. 1 f. d.

Plans and specifications for construction of Sellers, Sweisberger, William Daniels, and Garner bridges, showing dates of plans and specifications, names of bridge and surveyor, and specifications and blueprints of bridge. No obvious arr. No index. Blueprints and typed. 5 x 24 x 20.

FEEES

395. [SURVEYOR'S FEE BOOK, 1857-94. 1 vol.

Record of fees collected, showing date of survey, names of property owner and township, location and description of land, number of acres, and amounts of mileage and fees. Arr. by name of t. and chron. thereunder by date of survey. No index. Hdw. 100 pp. 14 x 9 x $\frac{1}{2}$. Aud. vt.

MAPS

396. MAP OF MARSHALL COUNTY, 1935. 1 blueprint.

Historical map of county, showing date of map and locations of old Menominee Indian Reservation, lakes, and swamplands. Drawn by Howard C. Grube, Plymouth. Scale: 1" to 1 mile. Blueprint. $20\frac{1}{2}$ x $20\frac{1}{2}$.

397. TOWNSHIP MAPS, undated. 56 maps.

Communication maps, showing names and locations of cities, towns, roads, railroads, rivers, lakes, and streams; name of township; and section and range numbers, and boundaries. Black and white. 4" to 1 mile. 24" x 36". 50 maps, surv. off.; 6 maps, clk. vt.

398. CITY MAPS, 1933-36. 5 blueprints.

Plat maps of Argos, Bremen, Bourbon, Lapaz, and Plymouth,

showing names of property owners, streets, additions, and subdivisions; location of land; dimensions of lots; and assessed valuation. Drawn by Howard C. Grube, Plymouth. Blueprint. Scale: 1" to 100'. 26 x 34.

399. LAKE MAXINKUCKEE-CULVER, INDIANA, undated. 1 blueprint.

Hydrographical map of Lake Maxinkuckee and plat map of city of Culver, showing names and locations of landings and beaches; depth of water; weed patches; roads encircling lake; names of property owners, streets, and additions; location of land; and dimensions and assessed valuation of lots. Drawn by Howard C. Grube, Plymouth. Blueprint. Scale: 1" to 100'. 17 x 26.

XL. COUNTY HIGHWAY SUPERVISOR

LEGAL STATUS

The office of county highway supervisor has existed in Marshall County ever since 1933 under the requirements of an act of 1933. The board of commissioners may appoint the county surveyor or some other person to serve as highway supervisor, subject to removal at any time by the board. If no such appointment is made, the surveyor must perform the duties of this office. A person other than the surveyor now holds this office in Marshall County. The law provides that the highway supervisor shall receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year). When he furnishes his own conveyance he receives 5 cents for each mile necessarily traveled by him in the discharge of his official duties.¹

The highway supervisor must be an elector of the county at the time of his appointment; must have been an inhabitant thereof throughout the preceding year;² must reside within the county after his appointment; must not hold any other

¹ Acts 1933; Burns 36-1101, 36-1110, 49-1010; Baldwin 8819, 8703, 7740. Cp. Atty. Gen. 1935, p. 205.

² Const. 1851, art. 6, sec. 4.

A county highway supervisor other than the surveyor is not required to be a certified registered professional engineer. Op. Atty. Gen. 1919, p. 269.

"executive office";³ and must take an oath to support the State and Federal Constitutions and faithfully perform the duties of his office.⁴

The board of commissioners authorizes the employment of teams, trucks, and men necessary to assist in the repair work of roads (under the supervision of the county highway supervisor), and determines the rate of wages and hire therefor.⁵ The board provides all tools and equipment necessary for the maintenance of roads.⁶

Before 1879 the board doing county business had general supervision of the maintenance of county roads, with the aid of district road supervisors, the township trustees, and township supervisors of roads.⁷ From 1879 to 1913 the board of commissioners was an ex officio board of directors for the maintenance of county roads (known as "Board of Turnpike Directors" from 1879 until 1901 and as "Board of Directors" from 1901 to 1913). The board divided the county into three districts, and each director had personal direction of one of such districts with the assistance of a supervisor appointed by him.⁸ In 1913 this board was abolished and the office of county highway superintendent was created. The superintendent was appointed biennially by the board of commissioners and placed in charge of the maintenance of all road, bridges, and culverts in the county.⁹ In 1933 this office was abolished¹⁰ and the office of county highway supervisor was created.¹¹

³ Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

Serving as surveyor and also as highway supervisor is not prohibited by the constitution. State ex rel. Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914).

⁴ Const. 1851, art. 15, sec. 4. Rev. Stat. 1838, ch. 91, sec. 27. Rev. Stat. 1843, ch. 16, sec. 80. Acts 1905; Burns 10-3765; Baldwin 2360. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 17054, 13055, 13057.

⁵ Acts 1833; Burns 36-1107; Baldwin 8705.

⁶ Acts 1833; Burns 36-1101, 36-1110; Baldwin 8699, 8708.

⁷ Acts 1816-17, ch. 8. Acts 1817-18 (general), ch. 43. Acts 1818-19 (general), ch. 11. Rev. L. 1824, ch. 87. Rev. L. 1851, ch. 20, sec. 22; ch. 42, sec. 47. Rev. Stat. 1838, ch. 21, sec. 20; ch. 81. Rev. Stat. 1843, ch. 4, secs. 26, 27, 169; ch. 5, secs. 66-68; ch. 16. 1 Rev. Stat. 1852, ch. 48; ch. 102, secs. 1, 4. Acts 1859, ch. 127, sec. 1.

⁸ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1895, ch. 147. Acts 1899, ch. 176, secs. 1, 2. Acts 1901, ch. 202. Acts 1905, ch. 167, sec. 85. Acts 1913, ch. 330, sec. 1. Acts 1932 (Spec. Sess.); Burns 36-901; Baldwin 8711.

⁹ Acts 1913, ch. 330, secs. 1, 2. Acts 1921, ch. 95. State ex rel. Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914).

¹⁰ Acts 1933; Burns 36-1113; no Baldwin.

¹¹ Acts 1933; Burns 36-1110; Baldwin 8708.

FUNCTIONS AND RECORDS

The county highway supervisor has general charge of the maintenance of county roads, bridges, and culverts;¹² divides the county into road districts; maps all existing roads, giving each road a separate name or number and setting forth the length and character of each road and the kind and volume of traffic;¹³ fixes maximum limits of loads for roads, bridges, and culverts; must not spend more than \$50 for the repair of a bridge or culvert without the approval of the board of commissioners;¹⁴ cuts noxious weeds and trims hedges along the roads when the landowners fail to do so;¹⁵ buries or cremates carcasses found on highways or nearby lands when the owners fail to do so;¹⁶ establishes standards for maintenance according to topography, nature, volume of traffic, and the availability of repair materials; annually makes a budget estimate of the cost of maintenance during the next calendar year;¹⁷ and attends meetings of the board of commissioners¹⁸ and sessions of the annual road school at Purdue University.¹⁹

The records of the county highway supervisor are maps of the highway system made by him,²⁰ reports of work in progress,²¹ monthly reports to the board of commissioner of all work done, and annual reports of his work, with complete statements of all expenditures under his supervision.²²

All of the records of the highway supervisor are in his office except as otherwise indicated in the entries.

¹² Acts 1889, ch. 175. Acts 1913, ch. 330, sec. 2. Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹³ Acts 1933; Burns 36-1109, 36-1110; Baldwin 8707, 8708.

¹⁴ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹⁵ Acts 1859, ch. 15, sec. 1. Acts 1885 (Spec. Sess.), ch. 24. Acts 1829; Burns 15-905; Baldwin 3720. Acts 1891; Burns 30-302; Baldwin 7648. Acts 1915; Burns 36-1805; Baldwin 8618. Acts 1939; Burns, 1941 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

¹⁶ Acts 1903; Burns 16-814, 16-816; Baldwin 3899, 3901.

¹⁷ Acts 1933; Burns 36-1103, 36-1110; Baldwin 8701, 8708.

This budget estimate is under the control of the board of commissioners and may be changed at any time by that board. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

¹⁸ Acts 1933; Burns 36-1103, 36-1104, 36-1110; Baldwin 8701, 8702, 8708.

¹⁹ Acts 1933; Burns 36-1110; Baldwin 8708.

²⁰ Acts 1933; Burns 36-1109, 36-1110; Baldwin 8707, 8708.

²¹ Acts 1933; Burns 36-1106, 36-1110; Baldwin 8704, 8708.

²² Acts 1933; Burns 36-1104, 36-1110; Baldwin 8702, 8708.

400. BUDGET LEDGER, 1938-. 1 vol.

Record of appropriations and disbursements of county highway funds, showing dates and amounts of appropriation and disbursement, names of claimant and fund, nature of disbursement, and balance in fund. Arr. chron. by dates of appropriation and disbursement. No index. Hdw. 150 pp. 14 x 9 x 1.

401. FREE GRAVEL ROAD REPAIRS, 1916-. 6 vols.

Record of expenditures for repair of gravel roads, showing date repaired, name and location of road, amount and kind of material used, cost and nature of repair, names of vendors, and total expenditure. Arr. chron. by date of repair. No index. Hdw. 300 pp. 17 x 15 x 2½. 4 vols., 1916-31, bookroom 1; 2 vols., 1932-, hwy. sup. off.

402. MISCELLANEOUS INVOICES, 1935-. 4 f. d.

Miscellaneous instruments of highway supervisor, consisting of:

- i. Invoices of material purchased, showing date of invoice, kind of material purchased, name and address of vendor, cost per unit, total amount of invoice, and terms of payment. Arr. chron. by date of invoice.
- ii. Semimonthly payroll sheets, 1938-, showing date of payroll and certification, name of employee, number of hours worked, nature of labor performed, rate per hour, and amount of wages due. Arr. chron. by date of payroll.
- iii. Weekly reports by employees, 1935-, showing dates worked, name of employee, kind of labor performed, hours worked, and material used. Arr. chron. by date of report.

No index. Hdw. 12 x 16 x 24.

403. TIME CARDS, 1937-. 1 f. d.

Time cards of employees of highway department, showing date and number of card, name of employee, number of hours worked per day, and total hours for month. Arr. chron. by date of card. No index. Hdw. 11 x 16 x 24.

404. PLANS AND PROFILES OF BRIDGES, 1922-32. 3 bdls., 19 blueprints.

Plans and profiles of bridges, showing names of bridge and township, and location, specifications, and dimensions of bridge. No scale given. Blueprint. Bdls., 10 x 5 x 15; blueprints 9 x 12. 3 bdls., 1922, bookroom 1; 19 blueprints, 1923-32, aud. vt.

MAPS

405. ROADS OF MARSHALL COUNTY, 1934. 1 map.

Political and communication map, showing date of map; cities, towns, cemeteries, farms, ward, and precinct boundaries; and names and locations of schools, railroads, and county roads. Drawn by Howard C. Grube, Plymouth. Scale: 1" to 1 mile. Black and white. 21" x 22".

XLI COUNTY AGRICULTURAL AGENT

LEGAL STATUS

The office of county agricultural agent has existed in Marshall County ever since 1917 under a permissive act of 1913 and a mandatory act of 1937. The county agricultural agent is appointed for a 1-year term by the director of the agricultural extension service of Purdue University, with the approval of the County Agricultural Agent Board (a State Board). This board prescribes his qualifications and may remove him from office. Any vacancy in office is filled in the manner provided for making the original appointment. Before 1937 the county agricultural agent was appointed annually by Purdue University (except that reappointments after 1923 could be made for 2-year terms, subject to the approval of the State Board of Education and county board of education. The county council is required to appropriate not less than \$1,000 annually for the expenses of this office. The act of 1937 provides that the county agricultural agent is to receive through Purdue University an annual salary of not less than \$2,000 (to be paid from a certain State fund provided for in that act), and that the County Agricultural Agent Board must "make a distribution of State funds to the several counties, on a graduated scale, according to the qualifications of the county agricultural agent employed therein and the needs of the county".¹

¹ Acts 1913, ch. 24, sec. 12. Acts 1913, 1923, 1927, 1937; Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457. Op. Atty. Gen. 1937, pp. 144, 561. Information obtained from H. J. Reed, director of the Department of Agricultural Extension, Purdue University, on February 22, 1941, by Julian Jacobson.

The appropriation act of 1941 appropriated \$184,000 per year for operating expenses of the county Agricultural Agent Board from July 1, 1941 through June 30, 1943. Acts 1941, ch. 231, sec. 2.

An act of 1829 provided for the establishment of county agricultural societies but no funds were appropriated. An amendment of this act in 1835 encouraged the county to provide funds for the development of agriculture. These early societies were short lived but were revived by an act of 1852 which provided for the offering of annual premiums by the county for the various phases of agricultural improvement. By 1890 every county in the State had organized an agricultural society. The principal activity of the agricultural society was the operation of county fairs with exhibits, racing, and amusements.² Legislative action of 1865 providing for the Indiana Agricultural College (now Purdue University) was the actual beginning of agricultural education in Indiana. An act of 1889 made it the duty of the college to conduct institutes among farmers and made an appropriation therefor. This act provided for the appointment of suitable persons to conduct institutes in the various counties.³ An act of 1907, which was repealed in 1911, required the payment of not more than \$100 annually by the county to promote agricultural extension activities.⁴ Under a mandatory law of 1911 the board of commissioners must authorize the payment of hall rents, printing, advertising, prizes for contests, and other local expenses of a county farmers' institute. Such expenditures may not exceed 25 cents per square mile the area of the county.⁵ The county council and board of commissioners may appropriate \$200 annually for a corn growers' association or horticultural society, if there is no agricultural fair or association in active operation in the county.⁶

FUNCTIONS AND RECORDS

The county agricultural agent assists the farmers in obtaining greater efficiency, marketing by grade, using

Under the law in force in 1931 the State's contribution was not available in absence of appropriation by the county council. Op. Atty. Gen. 1931, p. 826.

The county could accept funds from the local farm bureau for the expenses of the office of county agricultural agent. *Ibid.*

² Acts 1828-29, ch. 4, secs. 1, 7. Acts 1834-35 (general), ch. 70, sec. 1. 1 Rev. Stat. 1852, ch. 2. William Carroll Latta, *Outline History of Indiana Agriculture*, pp. 271-275.

³ Acts 1889, ch. 134, sec. 1. Acts 1865; Burns 28-5601; Baldwin 6966.

⁴ Acts 1907, ch. 117, secs. 1, 2. Acts 1911, ch. 54, sec. 6.

⁵ Acts 1911; Burns 28-5625; Baldwin 3610. Op. Atty. Gen. 1934, p. 295.

⁶ Acts 1917, 1933; Burns 15-319; Baldwin 3544.

better sires, producing more legumes, preventing soil erosion, intelligently studying land use, improving pasture, using higher yielding varieties and adapted strain of seeds, culling flocks and herds, destroying insects and noxious weeds, and practicing careful organization in the farm business. The betterment of the rural home is his ultimate objective.⁷

Under the supervision of Purdue University, he conducts institutes, schools, and demonstrations to aid the farmers in the solution of these problems. He cooperates with farmers' clubs and other rural and civic organizations; assists boys' and girls' clubs and contest work; encourages other movements for the advancement of agricultural and country life; gives advice on practical farm problems; and aids the schools of the county in giving practical education in agriculture and domestic science.⁸

The county agricultural agent is an ex officio State entomologist but is called upon to function in such capacity only in case of emergency.⁹

The records of the agricultural agent consist of reports to Purdue University concerning his activities, compiled under the direction of the university.

All records of the county agricultural agent are in his office.

406. [MISCELLANEOUS PAPERS], 1918-. 2 f. d.

Contains:

- i. Copies of agricultural agent's annual narrative reports to Purdue University agricultural extension service, covering: activities on agricultural engineering, farm management and equipment, cultivation of farm land, farm crops, legumes, forestry, weed control, poultry and stock raising, horticulture, entomology, and marketing of crops, showing date of report, name of project, number of farm and other visits, and memoranda of achievements. Ar. chron. by date of report.

⁷ *Twenty-Sixth Annual Report of Purdue University, Department of Agricultural Extension, 1926-37*, p. 10.

⁸ *Ibid.*, pp. 22-100. Acts 1913, 1923, 1927, 1937; Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

⁹ Acts 1915; Burns 15-1214; Baldwin 3571. Information obtained from Frank N. Wallace, State Entomologist, on January 20, 1941, by William E. Chambers.

II. Copies of reports to Purdue University agricultural extension service of 4-H Club activities, 1934-, showing date of report, number of club leaders and members enrolled, nature of annual work programs and contests, names of members participating, grades made, and list of prizes awarded. Arr. chron. by date of report.

III. Copies of monthly reports to Purdue University agricultural extension service of agricultural extension service, 1933-, showing date of report, schedule of meetings planned and held, and statistical summary of all activities. Arr. chron. by date of report.

iv. Duplicates of claims filed with the county board of commissioners for expenses of agricultural agent, showing date, number, nature, and amount of claim and name of claimant. Arr. chron. by date of claim.

v. Original papers pertaining to soil tests for phosphate, acidity, and marl, 1933-, showing date and result of test, name of farm owner, location of farm, and nature of recommendations made. Arr. chron. by date of test.

No index. Hdw. and typed. 12 x 12 x 24.

407. TUBERCULIN TESTS OF CATTLE, 1930-. 1 f. b.

Duplicate papers pertaining to tuberculin tests made of cattle in county, showing date of test, names of cattle owners, number of pure bred cattle, suspect and react tag numbers of cattle tested, and recommendations made. Arr. alph. by name of cattle owner. No index. Hdw. 14 x 8 x 6.

XLII. COMMISSION OF PUBLIC RECORDS

EVOLUTION AND STRUCTURAL ORGANIZATION

The commission of public records of Marshall County exists under the mandatory provisions of an act of 1939. The commission consists of the judge and clerk of the circuit court, the president of the board of commissioners, and the county auditor. The clerk of the circuit court is secretary, and another member (selected by the commission) serves as chairman.¹

¹ Acts 1939; Burns, 1941 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

For laws concerning eligibility, oath, and removal of these officers, see the essays on circuit court, board of commissioners, auditor, and clerk of the circuit court.

The members of the commission serve without compensation and receive no reimbursement for any expenses.²

An act of 1877 required the board of commissioners to order copies to be made of any public records in the county when necessary for their preservation.³ An act of 1925 provided that any public official, at his discretion, may turn over to the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials, not in current use in his office;⁴ and an amendatory act of 1937 added a provision that the director of the State Library, at his discretion, may make a copy of any official book, record, document, original paper, newspaper, or printed book or material in any public office, for preservation in the State archives.⁵ An act of 1935 created within the executive department of the State a "Commission on Public Records," consisting of the Governor, the Secretary of State, the State Examiner, the director of the State Library, and the director of the Historical Bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except for the provisions relative to ex officio members of the commission.⁶ These laws reflect the past and present attitudes of the General Assembly toward the preservation of public records.

FUNCTIONS AND RECORDS

It is the duty of the commission to classify public records on the following basis: (a) Those having no official or historical value; (b) those of current official value; (c) those of official value, but rarely consulted and of no appreciable value to the officer with whom they are filed; and (d) those of purely historical value.⁷

Records of class (a), occupying space to no purpose in the offices and storerooms of the county, must be destroyed or otherwise disposed of 3 years after they were originally filed, unless a law prohibits their destruction or requires

² Acts 1939; Burns, 1941 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

³ Acts 1877; Burns 26-634; Baldwin 5339.

⁴ Acts 1925; Burns 63-830; Baldwin 10287.

⁵ Acts 1925, 1937; Burns, 1941 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶ Acts 1935; Burns, 1941 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

Op. Atty. Gen. 1939, p. 259.

⁷ Acts 1939; Burns, 1941 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

that they be kept beyond that period.⁸ Records of class (b) are to be "retained in the office where they are required to be filed."⁹

Records of classes (c) and (d) must be transferred to the State Library 3 years after the date of the filing, unless they are then in frequent use by the officer in charge. In the event of such transfer, the records of class (c) will be added to the "archives" of the Library, while those of class (d) will constitute a part of the "collection" of that institution.¹⁰

When any public records are ordered destroyed or transferred, the commission must enter an order to that effect on its minutes. The order must be dated and must contain a general description of the public records to be destroyed or transferred.¹¹

It is unlawful for any public official or person to destroy any public record unless the commission has previously given its approval in writing and entered such approval on the minutes of the commission.¹²

Within the meaning of the act of 1939, a public record is any written or printed book, paper, document, map, or drawing which is the property of any county, and in or on which any entry has been made or is required by law to be made, or which any officer or employee of the state has received or is required to receive for filing.¹³

No records of the commission of public records were found in this county.

XLIII. COUNTY POUNDKEEPER (1836-53)

LEGAL STATUS

From 1836 until 1853 Marshall County had a poundkeeper,¹

⁸ Acts 1939; Burns, 1941 suppl., 49-3703, 49-3704; Baldwin, 1939 suppl., 5492-3, 5492-4.

⁹ Acts 1939; Burns, 1941 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

¹⁰ Acts 1939; Burns, 1941 suppl., 49-3704 to 49-3706; Baldwin, 1939 suppl., 5492-4 to 5492-6.

¹¹ Acts 1939; Burns, 1941 suppl., 49-3707; Baldwin, 1939 suppl., 5492-7.

¹² Acts 1939; Burns, 1941 suppl., 49-3708; Baldwin, 1939 suppl., 5492-8.

¹³ Acts 1939; Burns, 1941 suppl., 49-3709; Baldwin, 1939 suppl., 5492-9.

¹ Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, sec. 49. 1 Rev. Stat. 1852, ch. 4; ch. 92.

Marshall Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1835-26 (general), ch. 17, sec. 1.

who was annually appointed by the board of commissioners and served until his successor was chosen and qualified.²

FUNCTIONS AND RECORDS

The county poundkeeper had charge of the county pound erected at or near the county courthouse with fence, gate, lock, and key, where estray animals were confined. He kept the pound in repair and attened it at such time as estrays were directed to continue therein.³ Estrayed animals taken up by residents of the county were delivered to the pound, where they were held subject to reclaiming by their owners or order of sale made by the court.⁴ On the failure of the poundkeeper to discharge his duties properly, he was subject to a forfeiture of the sum of \$8 to the peron injured.⁵

In 1853 the General Assembly abolished this office and provided that all estrays be thereafter kept in the custody of the taker-up until they were reclaimed by their owner or sold at public sale.⁶

No record for the county poundkeeper were found in this county.

² Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1843, ch. 4, sec. 49.

³ Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 7, sec. 20.

⁴ Rev. Stat. 1838, ch. 37, sec. 9. Rev. Stat. 1843, ch. 21, sec. 4.

⁵ Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 7, sec. 20.

⁶ 1 Rev. Stat. 1852, ch. 4; ch. 92.

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